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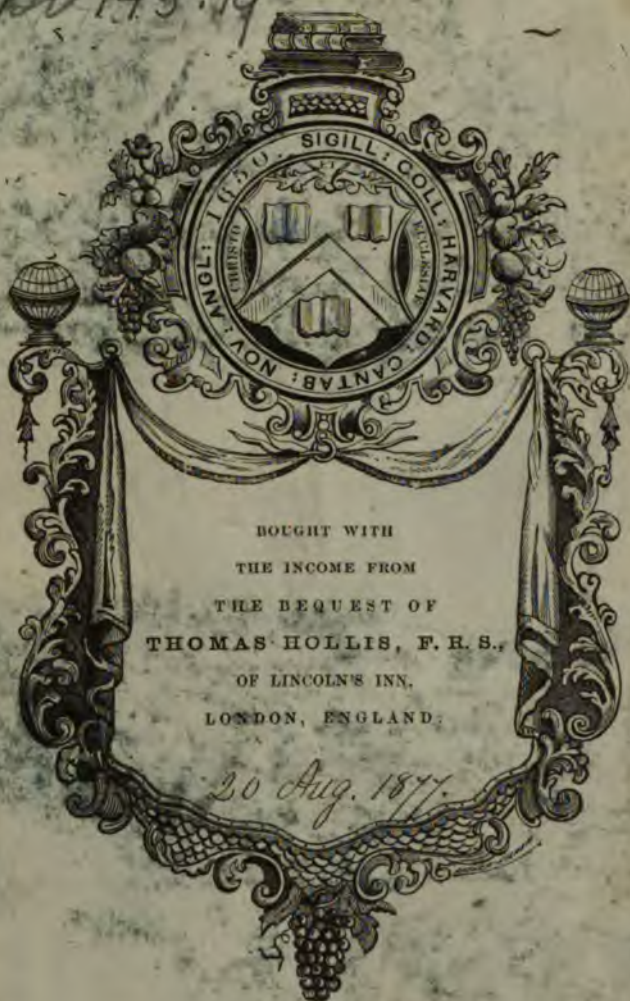
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LONDON, ENGLAND.

20 Aug. 1877.







# **PROTESTS OF THE LORDS.**

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A COMPLETE COLLECTION  
OF THE  
PROTESTS OF THE LORDS

WITH HISTORICAL INTRODUCTIONS

EDITED FROM THE JOURNALS OF THE LORDS

BY  
JAMES E. THOROLD ROGERS

VOL. III. 1826—1874

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CERTA LOCI'

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1877, Aug. 20.  
Hollis Gurnea.

# PROTESTS.

DCXVI.

FEBRUARY 17, 1826.

The Bank Act of 1826 (7 George IV, cap. 46) repeals that monopoly of ~~the Bank of England~~ which prohibited any number of persons exceeding

## ERRATA.

In dcccxv. dcccxvi. *for* Paulyn, Reginald Serlo Rawdon Hastings, Marquis of Hastings, *read* Jacob Astley, Lord Hastings.

In dccciv. *for* John Evelyn Pierrepont Dormer, Lord Dormer, *read* Joseph Thaddeus Dormer, Lord Dormer.

In dccciv. *for* Charles William Canning, Viscount Canning, *read* Charles John Canning, Viscount Canning.

country when suffering under distress produced by a temporary panic; whilst I sincerely regret that I must be of opinion that the conduct of Parliament in sanctioning the proposed measures cannot fail to spread throughout these kingdoms an alarm, the effects of which, conjoined with those of the expiring panic, must inevitably reduce this country from the greatest prosperity to a state of suffering which in profound peace it has seldom, if ever, experienced.

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1877, Aug. 20.  
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# PROTESTS.

DCXVI.

FEBRUARY 17, 1826.

The Bank Act of 1826 (7 George IV, cap. 46) repeals that monopoly of the Bank of England which prohibited any number of persons exceeding six from establishing a banking company, and permits the creation of such companies at a distance of more than sixty-five miles from London. On the other hand, the Bank of England was empowered to erect provincial branches. The debate on the Act may be found in Hansard, vol. xiv, New Series, p. 450. Simultaneously with the Bill, certain resolutions were passed by the House of Commons limiting the English notes after a given date to £5.

The following protest was entered.

1st, Because, waiving all consideration of the question whether the system of circulation as now by law established will or will not be ameliorated by a partial repeal of the exclusive privilege enjoyed by the Bank of England, which this Bill enacts, and by the annihilation of all bank notes under £5 in the year 1829 instead of the year 1833—the measure with which it is conjoined, —I must regard the conduct of ministers in courting such discussions at a moment of pecuniary embarrassment as not only rash in the extreme, but as exhibiting a lamentable ignorance of the salutary mode of conducting the affairs of this great mercantile country when suffering under distress produced by a temporary panic; whilst I sincerely regret that I must be of opinion that the conduct of Parliament in sanctioning the proposed measures cannot fail to spread throughout these kingdoms an alarm, the effects of which, conjoined with those of the expiring panic, must inevitably reduce this country from the greatest prosperity to a state of suffering which in profound peace it has seldom, if ever, experienced.

2ndly, Because nothing has been stated in debate that can vindicate Government in proposing, far less justify Parliament in adopting, legislative measures pregnant with consequences so destructive to the immediate interests of the community.

Ministers had advised his Majesty in his Speech from the Throne to announce to Parliament and the public the temporary sufferings of the country in a manner unjustifiably alarming, and to state their opinion that to a certain portion of the evil (meaning the state of the currency) correctives, if not effectual remedies, might be applied, whilst against the recurrence of the remaining portion of the evil (meaning the demand for capital arising from joint stock companies and other wild schemes and speculations) there could exist no security but in the experience of the mischiefs they had occasioned.

With such a statement of the nature of the calamity thus solemnly laid before the public, I must think they had a right to expect that Parliament would devise some immediate remedy for the evil to which it was held to be competent to administer a corrective;—and that it would at least abstain from encouraging that portion of the evil the remedy for which had been described as beyond the reach of its interposition.

I cannot therefore help anticipating the fatal effects of the disappointment which in this moment of alarm must ensue, when the public learn that to that part of the evil which Parliament is said to have the power of correcting they have selected a remedy which, at the expense of great immediate evil, is to take place three years hence; whilst they have altered the law with the avowed intention of encouraging the immediate recurrence of that portion of the evil beyond the reach of their interposition, by the establishment of joint stock banking companies throughout this Kingdom.

3rdly, Because those who recommend these measures to Parliament assume that the encrease of bank paper raised the price of commodities; that a rise in the price of commodities gave birth to schemes, speculation, and joint stock companies; that this state of things created a necessity for a further extension of currency; and that the extension of currency, with the disposition to scheming which it generates, thus alternately operating as cause and effect, produced the calamity under which we at present suffer.



No proof has however been given that paper, either of the Bank of England or of the country banks, existed in excess; or that an excess of paper, payable in cash on demand, can produce a rise in the price of commodities.

For some years bank paper has been, *de jure* as well as *de facto*, convertible into coin on demand; and I must agree with the Committee on the high price of bullion, 1810,—‘That no safe, certain, and constantly adequate provision against an excess of paper currency, either permanent or occasional, can be found, except in the convertibility of all such paper into specie.’

On such reasoning as I have heard I cannot therefore renounce these opinions, and sanction measures calculated to create an alarm, the effects of which must be far more injurious to the interests of the public than those of the momentary panic, for which it is asserted they are the only remedy.

4thly, Because I am of opinion that those who have argued in favour of these measures have formed an erroneous view of the actual state of the country; and that the real cause of the calamity arises from an immediate transition from a state in which it enjoyed an extra supply of capital to a state in which it suddenly sustained a great extra demand for it.

That the rise in the value of land, of funded property, and of all securities producing a permanently fixed revenue, as well as the diminution of the interest of disposable capital (the criterion of its value) was the natural effect of a forced conversion of revenue into capital by the sinking fund to the extent of five millions a year, cannot be doubted, unless it is meant to deny the proposition, that an encrease of the supply of a commodity in proportion to the demand for it diminishes its value.

When again, in the year 1824 and in the year 1825, the desire of enjoying their former incomes led those who suffered under the diminished and diminishing market rate of interest to embark in schemes, joint stock companies, and speculations which caused the investment and payment of capital within a year to the extent of more than three times the amount of the sinking fund,—this demand for capital occasioned an immediate increase in its value, and of course raised the rate of interest, forcing many to call up capital with which they had accommodated others, and limiting the possibility of credit, from the diminution of the value of land,—of

funded property, and of fixed securities,—on the more extended value of which it had been safely granted;—and this inevitably produced such a sudden restraint in all pecuniary negotiations as unfortunately occasioned a temporary suspension of payments, even on the part of many who had funds; and the bankruptcy of those who had been alone sustained by that confidence which experience teaches us general prosperity, either real or ideal, uniformly creates.

That this is the true cause of the calamity under which the country suffers I cannot entertain a doubt; it is therefore with pain and regret I see Parliament persuaded to adopt measures as a remedy for a sudden extra demand for capital which must inevitably increase the demand for it.

Yet it is impossible to conceive that six millions of country one and two pound notes can be withdrawn without forcing the bankers to make a demand for five millions of their funds, with which the public are now accommodated; or that six millions of gold to supply the place of these bank notes can be obtained without making a further demand for capital to that extent; and lastly, it is impossible to believe that the projected joint stock banking companies can be generally established with security, without embarking capital to an extent that will create a further demand for eight millions.

It is therefore with sincere and deep affliction I anticipate the fatal injury the country must sustain from this ignorant attempt to remedy an evil arising from a sudden extra demand for capital, by creating a demand for it far more enormous.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

## DCXVII.

FEBRUARY 28, 1826.

On the third reading of the Bank Act, the following protest was entered.

1st, Because there is no reason to suppose that the banks which may be established under the provisions of the Bill will be more solid than the present banks, or speculate less. Numbers are not a criterion of property; and the solidity of banks depends not upon

their property, but upon the caution with which they act on correct principles. Men are not usually most cautious when numbers must bear a part of their losses; nor are their speculations usually diminished in proportion to the extension of their credit.

2ndly, Because, should the Bill effect the object of giving solidity to banks, it will only extend the operation of a vicious system of currency, which it is the duty of Parliament to reform. The real evil of the present system of the currency consists in the unlimited power of issuing paper which does not represent coin. That paper alone represents coin which the banker can at all times pay in coin; other paper represents the land or goods with which coin may be purchased. Such paper may be convertible into coin, but by competition it depreciates the coin into which it may be converted. Its sudden extension gives a false appearance of prosperity; its sudden contraction creates real distress. It encourages at one time the wildest speculation; at another, disappoints the most cautious calculation. Its fluctuations produce corresponding fluctuations in prices, and in the value of all property measured by a fixed quantity of the currency. It does not increase the real demand for commodities, but it changes the direction of that demand, raises the real price of some commodities, and lowers that of others, by transferring to the bankers and their customers a portion of the value before contained in the currency, and a portion of the power before possessed by others over the produce of labour. By the sudden changes it effects in the fortunes of individuals it arrests the progress of public wealth, and impairs the moral character of the people.

Edward Law, Lord Ellenborough.

## .DCXVIII.

MARCH 16, 1826.

The Promissory Notes Bill, founded on the resolutions above referred to (7 George IV, cap. 6), prohibits *inter alia* the issue of notes in England under £5, after April 5, 1829.

The following protest was entered against the third reading.

Because a paper currency, regulated by a metallic standard, is the most eligible, as it adapts itself more readily to the existing demand, while it leaves the great amount of capital which a

metallic currency would absorb to be employed in commerce, and by its accumulations progressively to increase the wealth of the country.

2ndly, Because the attempt to pay in gold an enormous debt borrowed in depreciated paper was, in itself, inexpedient and unjust; and this Act will tend to aggravate the evils growing out of that measure.

Henry George Herbert, Earl of Carnarvon.

## DCXIX.

MAY 23, 1826.

By 7 George IV, cap. 70, foreign corn was allowed to be taken out of warehouse for home consumption up to the 16th of August, 1826, at certain fixed duties. The purpose of the Bill was to limit and regulate the amount of foreign corn which could be put on the English market. The Bill was opposed by Lord Eldon, but was carried by 84 to 23. The following protest is entered.

Because it appears from the accounts presented to the House, that the quantity of wheat and wheat flour exported from Great Britain to foreign parts during the last five years exceeds the quantity imported, and that during that period the people of this country have wholly subsisted upon wheat the growth of the British Dominions, purchased at a price which has not hitherto produced any pressure upon the general consumer.

Because it is reasonable to expect, that the remunerating price obtained by the grower of British corn during the last two years will have induced a greater cultivation, and no circumstances have appeared to show that the increasing produce of the country will not continue to bear its present proportion to the demands of an increasing population.

Because the introduction of foreign wheat for home consumption must, by lowering the price of British corn, disappoint the fair calculations of the grower, and discourage the cultivation of the British soil.

Because the Bill affords a dangerous example of unequal taxation.

Because it would be just to tax the whole community for the relief of one distressed class; but it is unjust to tax one class only

for the relief of another ; and it is both unjust and absurd to distribute the proceeds of a tax levied upon one class equally amongst those classes which want relief and those which do not.

Because the Bill, being proposed by his Majesty's Ministers after repeated and very recent pledges that no measure touching the Corn Laws would be introduced by them during the present Session, appears to be the result, not of deliberative wisdom, but of hurried alarm, and bears the character of a premium upon outrage rather than that of a boon to distress.

Edward Law, Lord **Ellenborough**.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).

Henry Pelham Clinton, Duke of **Newcastle**.

Edward Henry Pery, Earl of **Limerick**.

Henry Bromley, Lord **Montfort**.

John Dutton, Lord **Sherborne**.

John Rushout, Lord **Northwick**.

The name of Lord Teynham is also inserted after that of Lord Limerick, but a pen is drawn through it.

## DCXX, DCXXI.

MAY 23, 1826.

The two following protests are directed against a second Bill, 7 George IV, cap. 71, empowering the King to admit foreign corn at duties to be fixed by the Council, and up to the 1st of January, 1827, or, if Parliament be not sitting, for six weeks after the commencement of the Session. The second reading was carried by 78 to 28.

1st, Because, when we recollect the numerous pledges given by various members of his Majesty's Government in the course of the present Session, that the Corn Laws should not be interfered with, and the recent resistance made in the other House of Parliament to a proposal intended to affect them, we cannot account for the sudden change that has taken place in the conduct of Government, without any apparent alteration of circumstances, or any reasonable motive having been assigned but by attributing it to a secret and unavowed desire of taking advantage of the present crisis to carry a measure which must have the effect of creating a prejudice against the agricultural interest, when Parliament goes into a full investigation of the important question on the expediency of the present Corn Laws, and the alteration, if any, which the welfare of the country requires.

We are ready to admit that the extravagant speculations in the years 1824 and 1825, succeeded by the measures of Government adopted for the purpose of annihilating that circulation of £1 notes in a moment of distress which they had in vain attempted to effect some years ago in times of greater prosperity, has thrown a great body of our manufacturers out of employment, and produced the greatest distress amongst that class of labourers.

But we cannot conceive how this distress can be stated to arise from the existing Corn Laws; and we are prepared to assert, that the proposed alterations in these laws can produce no relief to our suffering manufacturers, for the price of a commodity matters not to those who unfortunately are reduced to a state that they have not even at the lowest value the means of acquiring it.

On the contrary, we sincerely believe, that as these measures must impoverish the agriculturist, it cannot fail to increase the sufferings of our manufacturers, by greatly diminishing the demand for manufactures in the home market.

We are therefore at a loss to comprehend how a measure, ruinous to the labourers in agriculture, and which must indirectly tend to increase the distress of the manufacturers, by diminishing the demand for the produce of their industry, should be proposed or even hinted at as a means of affording them relief.

We are however still more at a loss to conceive on what grounds Government have suddenly alarmed the country with the dread of impending scarcity, by urging, not only the necessity of admitting the bonded grain into the home market, at such an inadequate duty as 12s., but also the unprecedented measure of giving them a discretionary power to admit foreign grain; for we cannot help recollecting that in November last, when the country had nine months to rely on the supply which the late harvest afforded, wheat was 10s. a quarter dearer than at present, when they have only to look to the produce of last year for the supply of three summer months, in which experience shows that there hardly exists a greater demand than in two months of the spring.

Yet at the meeting of Parliament no dread of impending scarcity was hinted at; besides, it is impossible to forget that last year, when wheat was nearly 8s. a quarter dearer, and when in every other respect there were stronger symptoms of impending scarcity, Government only proposed admitting a certain portion of the

bonded grain, and never attempted to apply to Parliament to sanction a discretionary power of importing foreign grain.

Under these circumstances we feel it our duty to protest against the proposed measures, for, in the absence of all reasonable motive for urging the necessity of them, we cannot help thinking that Government, with the recent experience of the aid they derived from distress in carrying their measures with relation to small notes, were actuated by a desire again to take advantage of a crisis of distress, as a fortunate opportunity of getting the consent of Parliament to a measure which may in a future Session influence the decision on this important point of national policy, by creating, before inquiry, a prepossession in favour of the importation of foreign grain, and of 12*s.* a quarter, the duty proposed to be imposed on the bonded grain, as an adequate compensation for the extra taxation to which the home grower of grain is subjected.

2ndly, Because, regarding this as the real object of the present measures, we cannot, at a time when a design is avowed of altering the system of our Corn Laws, refrain from entering our most solemn protest against the injustice of giving to the agriculturist of this country such an inadequate protection against the interference of the foreign grower of grain in the home market.

The public have heard much of the merit his Majesty's Government assume to themselves in having done away the ancient system of restriction, under which this country had long flourished, for the purpose of introducing the more liberal system of what has been called a perfectly free trade, and the new regulations in the silk trade have been held forth as the case which most forcibly displays this alteration in our commercial legislation. Now, in deciding on the adequacy of the proposed protection, we only wish that the Legislature would reflect how far a duty of 12*s.* a quarter on the importation of wheat gives to the home grower of grain the same protection that, at the moment of establishing what has been ridiculously denominated a free trade, they have thought it just to secure to the silk manufacturer.

From the raw material employed in this manufacture all duty has been taken off, the manufacturer is subjected to no direct taxation, and yet he is defended by a duty of 30 per cent. on the value of the commodity produced by his labour, avowedly for the purpose of compensating those taxes on consumption to which the agricul-

turist is subjected, in common with himself and the rest of the community.

Unfortunately, however, the grower of grain is in this country subjected to many direct impositions which exclusively affect the important class of our fellow-subjects to which he belongs.

The Land Tax, which has been collected at the rate of 4*s.* in the pound, is more or less burthensome in various parts of the country ; but to us it appears that it may be moderately estimated as amounting to 10 per cent. on the rent throughout the Kingdom.

The Government have themselves furnished data which makes it clear that they have estimated the tithe and the poor's rates, to which the land is also exclusively subjected, as equal to one-third, or 33 per cent. on the rent.

For when the tenantry of Scotland alleged, that as there existed no tithe or poor's rates in that country they paid to the landlord the amount of these taxes in rent, and that if they paid 1*s.* 6*d.* in the pound to the property tax they would in fact pay to Government a tax equal to what the tenant in England would have paid had he been subjected to 1*s.* 6*d.* in the pound on what was paid as rent, tithe, and poor's rate, the plea was admitted to be unanswerable, and the tax was fixed at 1*s.* in the pound on the rent in Scotland, that is, a third less than the tax paid by the tenantry in England, by which it is evident that the poor's rate and tithe were defined by the Legislature to be equal to one-third, or 33 per cent. on the amount of the rent.

Besides this, it appears impossible to estimate the direct taxes imposed on the land in the shape of road and bridge money, the erection of public buildings, the expense of militia, public prosecutions, repairing damage done by rioters, and many other charges, as amounting to less than 14 per cent. on the rent.

In our opinion, therefore, the land is subjected to direct taxation amounting on the rent at least to

Land Tax	.	.	.	.	.	10 per cent.
Tithe and Poor's Rate	.	.	.	.	.	33 ditto.
Road, Bridge money, &c.	.	.	.	.	.	14 ditto.
Total	.	.	.	.	.	57

We must therefore think it indisputable, that as, according to all the evidence given before the Committee of this House, the rent of



land has in modern times been considered as equal in value to one-fourth of the produce, one-fourth of 57 per cent., that is, 14½ per cent., must be considered as the direct tax imposed on the produce of the land.

It follows then, that if our ancient system is to be abandoned, and the grower of grain is in future to be protected by a duty on importation, it will require a duty similar to what the silk manufacturer enjoys to compensate him for the taxes on consumption, and also an additional duty to cover the direct taxes to which he is subjected ; that is

1st, A duty of . . . . .	30 per cent.
2ndly, A duty equivalent to the direct taxes imposed on the produce of land . . . . .	<u>14 per cent.</u>
In all . . . . .	44 per cent.

But in the case of wheat it is proposed that 12s. a quarter should be paid as a duty on foreign grain, which, taking the value of wheat at 60s. per quarter, is 20 per cent. instead of 44 per cent. on the value of that commodity, the duty the Legislature ought to impose if it dealt with the grower of grain on the principle acted upon in establishing this free trade in our manufacture of silk.

To us it appears therefore incontrovertible, that Government have, on the principles they have themselves laid down, committed an act of gross injustice, in limiting the duty on the bonded grain to 12s. a quarter, and in holding this out as a protection to the home grower ; for it requires no reasoning to prove, that an uncompensated extra taxation of 24 per cent. *ad valorem* must have the same effect as a bounty to that extent given to the foreign grower of grain ; and it is impossible that under such an arrangement the home grower can on equal terms enter into competition with the foreigner, even in our own markets.

3rdly, Because though we are decidedly of opinion that in the event of a well ascertained impending scarcity, it is at all times due to the people of this country to obtain an immediate and adequate supply of foreign grain upon any terms, yet we have no hesitation in asserting our belief, founded on the evidence taken before this House, that, except on very extraordinary occasions,

Great Britain and Ireland are capable of rearing an ample quantity of grain for the nourishment of our population.

We do therefore with confidence state it to be our deliberate conviction, that it is to a system of law which encourages the home grower of grain we can only look for a constant and gradually increasing supply at a moderate price; and that it is from pursuing such a system we can alone expect to succeed in obtaining the two great objects, first, of rendering the country independent of foreign supply, secondly, of keeping the price of corn at nearly an equal rate.

From contemplating the situation of all countries who have trusted to foreigners to furnish a portion of their usual necessary subsistence it is evident, that, as the effects of a good or bad season are seldom confined to any one particular country, so the fate of a nation which trusts to foreign supply is to be inundated in a plentiful year to a degree ruinous to its agriculture, whilst in a year of scarcity self-preservation dictates the necessity of keeping that portion of the crop at home which was usually exported, and reduces the country that confides in importation from abroad to the certainty of an extravagant price for the necessary supply of food, and even to the peril of approaching famine; when, if a contrary system had been pursued, the population would have only felt the inconvenience arising from a considerable augmentation in the value of what was necessary for their sustenance.

It is the experience that this is the natural consequence of trusting to a foreign supply of grain which has induced all countries that have acted upon this system to form granaries at a great expense, that in years of plenty they might hoard up a store to come in aid of the necessary consumption in the hour of scarcity, being aware that they may in vain look for aid from those on whose produce they had imprudently relied at a time when they themselves are apprehensive of not being able to command a sufficiency.

Of the wisdom of giving that encouragement to the home grower of grain which ensures the produce of the country being equal to its usual consumption, and of the fatal effects of trusting to a foreign supply, the history of our Corn Laws, and the detail of the prices at which grain has been sold to the community, affords a most ample illustration.

In the reign of Charles II, grain had on an average been for a considerable time at what, in those days, was conceived to be an exorbitant price. To remedy this evil, Parliament, in the year 1673, under the impression that encouraging our internal agriculture was the best means of relief, prohibited all importation of wheat till it attained the price of 53*s.* per quarter, and even then it was subjected to a duty of 8*s.*

So that foreigners could not enter into a competition with the home grower in our own markets till the value of wheat was equal to 53*s.* a quarter, the price at which it might be imported, and 8*s.* the duty to which it was subjected, making together £3 1*s.*, which in the money of that day was more than equivalent to £8 4*s.* 1½*d.* of the money of the present time.

Such was the regulation in relation to the importation of grain, which endured to the year 1765, securing to the country, not only an abundance of grain at a moderate price, but at a price gradually diminishing, as the average market value of wheat for thirty-six years, from 1700 to 1735 inclusive, amounted only to £1 19*s.* 2*d.*, whilst the average price from 1736 to 1765 inclusive was reduced to £1 14*s.* 10½*d.*, and during all this period large quantities were annually exported to foreign markets.

In the year 1766 this system was, however, abandoned; and for nearly eight years annual acts were passed which gave to the country, not what is now called a free trade, that is, a trade protected against the foreigner by a duty of thirty per cent., but a trade completely free, the foreign grower paying no duty at all for what was imported.

From the moment this change was effected, instead of raising, as we had done, for half a century, grain sufficient to supply ourselves, and a surplus for exportation, we became an importing country, dependent on foreigners for part of our supply; and the price of grain was, on an average of these eight years, £2 10*s.* 10*d.*, that is, 15*s.* 11½*d.* higher than it had been on an average for thirty years before this system of free trade was resorted to.

In the year 1773 the system was again altered; and the importation of wheat, duty free, was fixed at £2 8*s.*, a sum equal to £1 6*s.* 6½*d.* in the money of the year 1673.

This regulation endured till the year 1791; and the price of wheat, from the year 1766, the time when the salutary provisions

of the Act of Charles II were repealed, till that period, amounted on an average to £2 9s. 2½d., that is, 14s. 4½d. more than it cost on average of thirty years before the efficient protection given by the law of Charles II was done away.

In the year 1791 a new regulation was adopted by an Act which endured till the year 1804, fixing the price at which wheat could be imported, combined with the duty, at £2 12s. 6d., which, in the money of the year 1673, was only equal to £1 2s. 2d.

During this period our reliance on the foreign grower increased, and the average price of wheat will be found to have been no less than £3 14s. 5½d.

In the year 1804 the Legislature enacted a new regulation. The importation of wheat was prohibited till the price amounted to 63s., when it was subjected to a duty of 2s. 6d.; so that the import price and the duty combined amounted to £3 5s. 6d. of value in the money of 1673, equal to £1 5s. 4½d., a sum far less than one-half of what had been fixed as an adequate protection in the reign of Charles II.

Under this diminished encouragement to the home grower the price of wheat amounted on an average, from 1804 to 1813 inclusive, to £5 os. 3d., a price greatly exceeding what has lately been discovered to be a sure indication of famine, though we have heard the prosperity of the country boasted of when on an average of two years it exceeded £6.

Neither is this all; from the time of abandoning the efficacious protection which the Act of Charles II afforded to the internal corn grower, the value of wheat became fluctuating to a degree that, instead of never varying more than one-third, which had been the case for a length of time, it was in some years more than three times the price that it was in others; whilst the average annual value not only increased, but we ceased to be an exporting country; and betwixt the year 1765 and the year 1812 we actually imported, exclusive of what was brought from Ireland, 20,757,622 quarters of grain, and of meal and flour 4,598,522 cwt., in value £57,584,310.

Upon the return of peace in the year 1815, from a feeling of the ruin in which the farmers and agriculturists were likely to be involved, a new law, after a minute investigation, was adopted in relation to the import price of grain, which undoubtedly gave

to the home grower a more formidable protection against foreign importation than any regulation since the time of Charles II; and if allowance is made for the alterations which unfortunately took place in our currency, grain has from that time been furnished to the consumer at a more equal and certainly at a more moderate price than it had borne for many years, notwithstanding the great importation that had taken place between 1765 and 1812.

Such are the facts from which we are disposed to infer that it is highly inexpedient to depend on foreigners for any part of our supply of grain, and which lead us, not only to lament that when wheat is at a moderate price his Majesty's government should indicate a disposition again to rely for foreign supply for this article of first necessity, but to feel it a duty to object to these incipient symptoms of such a design, not as affecting the landholders, whose interests we must consider as subordinate, but as affecting the labourers in agriculture, the manufacturer, and generally the consumers of grain, who, if they are not led astray by ignorant and designing men, desirous of momentary popularity, must from past experience be convinced, that though they may for a short time obtain sustenance at a lower price, yet it is impossible that they should not ultimately suffer severely for the temporary advantage they acquire.

For the labourers in agriculture must, on a moment's consideration, be aware, that the immediate loss to the farmer will inevitably throw many of them out of employment; and the small shopkeepers throughout the country districts of the kingdom, the best and surest customers of our manufacturers, cannot fail to perceive, that if the labourers in agriculture are thrown out of work the demand for their commodities must fearfully diminish; whilst the manufacturer, who well knows the importance of the home market, both in extent and in certainty of payment, cannot but anticipate the misery in which they will ultimately be involved by listening to those who in truth only wish to obtain momentary popularity, by persuading them to sacrifice their permanent welfare to receive a little temporary enjoyment.

With these views of the fatal consequences of the measures now proposed, we conceive it to be our duty most seriously to deprecate these the first efforts towards introducing a system of dependence

on foreigners for our supply of grain, which, if there is any confidence to be reposed in the experience of past times, must lead to national calamity.

It is therefore in the name of all the great interests of the nation, from the highest to the lowest, that we feel it a duty to enter this our most solemn protest against renewing a system from which the country suffered from 1765 to 1812, and, above all, against abandoning a system, which, after enduring for more than nine years, produced effects so beneficial, that his Majesty, in his Speech from the Throne on the 3rd day of February, 1825, was advised to declare, 'That there never was a period in the history of this country when all the great interests of the nation were at the same time in so thriving a condition, or when a feeling of content and satisfaction was more widely diffused through all classes of the British people.'

Henry Bromley, Lord Montfort.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

James St. Clair Erskine, Earl of Rosslyn.

Henry Pelham Clinton, Duke of Newcastle.

For the reasons above stated against the passing of the warehoused Corn Bill.

And further, because the Bill delegates to the ministers of the Crown a power which the Constitution has placed in the hands of Parliament, and gives to a few individuals arbitrary influence over the profits of agriculture, and the price of the food of the people.

Because all great public measures, however temporary in their legal duration, are not so in their political effect, and it is the particular tendency of this measure, by the additional uncertainty it must introduce into the corn trade, and the violent fluctuations of price consequent upon that uncertainty, to create a necessity for its continuance which does not exist for its adoption.

Because the Bill, proposed on the ground, not of existing but of future possible necessity, affords a precedent for giving to the ministers of the Crown a discretionary power of suspending the Habeas Corpus Act, or any other law most essential to the liberty of the subject.

Because all encroachments of arbitrary power have thus been

effected under the semblance of public benefit, and often with the acquiescence of a deluded people; but it is the duty of those who see the real nature of this measure solemnly to protest against the passing of a Bill which will be as injurious to the true interests of all classes of the community as it is contrary to the acknowledged principles of the Constitution.

Edward Law, Lord **Ellenborough**.

Edward Henry Pery, Earl of **Limerick**.

Henry Pelham Clinton, Duke of **Newcastle**.

Henry Bromley, Lord **Montfort**.

John Dutton, Lord **Sherborne**.

As before, a line is drawn through Lord Teynham's name.

## DCXXII, DCXXIII.

JUNE 28, 1827.

By 7 and 8 George IV, cap. 57, permission was again accorded to take out of bond up to the 1st of May, 1828, and under temporary duties ranging from 22s. 8d. to 1s., foreign corn for home consumption. On a third reading the following protests were entered.

1st, Because the existing corn law would, by the proposed measure, be infringed, as has been done on former occasions, without any plausible pretext, and in a manner that must very justly as well as very generally excite the distrust and discontent of the owners and occupiers of land.

2ndly, Because the proposed measure would withdraw from them the protection which was wisely and properly granted to them by the existing corn law, and would thus violate their rights and endanger the security of their properties.

3rdly, Because the prices at which wheat is now and has for many months past been sold in this country are very low, and are not such as indicate a deficiency of produce, nor such as would require the introduction into the markets of a large quantity of bonded wheat.

4thly, Because the sale of that bonded wheat (some of which was imported at prices that were lower by one-half than those which were obtained at the same time by the growers of wheat in this country) might very much tend to depress the markets at home, and would thus, with manifest injustice, inflict great

injury upon the agricultural, and consequently upon all other classes of the community.

Philip Henry Stanhope, Earl Stanhope.  
James Edward Harris, Earl of Malmesbury.  
Charles William Stewart Vane, Marquis of Londonderry.  
James Brownlow William Gascoyne Cecil, Marquis of Salisbury.  
Henry Pelham Clinton, Duke of Newcastle.  
Henry Francis Roper Curzon, Lord Teynham.  
William Murray, Earl of Mansfield.  
John Freeman Mitford, Lord Redesdale.  
Charles Abbot, Lord Colchester.  
John Cust, Earl Brownlow.  
James Maitland, Lord Lauderdale (Earl of Lauderdale).  
James Walter Grimston, Earl of Verulam.

1st, Because the experience of the world has shewn that the cultivation of the soil has been the source of the prosperity of every country, and that continual importation of foreign corn has had generally the effect of discouraging, and consequently of diminishing, the agricultural produce of those countries in which such importation has been unnecessarily permitted.

2ndly, Because the policy adopted by our ancestors, in framing laws respecting the importation of foreign corn, was founded on such experience, and therefore allowing the importation of foreign corn, for the purpose only of supplying any accidental deficiency in the produce of the country, for the consumption of its inhabitants, and generally excluding foreign corn from the home market; and this policy has had the effect of encouraging the extended cultivation of the country, and supplying increased consumption, arising from increased population and increased luxury; and every measure which has been from time to time adopted, encouraging generally the importation of foreign corn, has had a necessary tendency to discourage cultivation, and thereby to render the produce of the country insufficient for the support of its inhabitants.

3rdly, Because it has not been pretended by the supporters of this Bill, that there is at this time any such deficiency in the produce of the country as to require a general supply of foreign produce for the subsistence of the people; and especially that there is any such deficiency in the produce of wheat, the most important article in the supply of food for the inhabitants of the country;



and if there existed any partial deficiency in the supply of any particular article not so essential to the supply of food for the inhabitants, such partial deficiency might have been provided for by allowing the partial importation of such particular article; and it is therefore manifest that the object in view is not to relieve any distress which might have been occasioned by a temporary failure of every species of home-grown corn, but to sanction a principle of legislation different from that on which the ancient laws were founded, and by the adoption of that new principle in this instance, to sanction the constant and general importation of foreign corn, without regard to any deficiency or redundancy of the home produce.

4thly, Because the Bill must be considered as founded on the same principle on which a Bill still depending, but apparently abandoned by its original supporters, was founded, intituled, 'An Act for granting duties of customs on corn,' which would, if adopted, have created a new revenue in the nature of a partial land tax, operating directly and exclusively on the tillage lands of the country; whereas, if it should be deemed proper that a new tax should be imposed on revenue derived from land, such tax ought in justice to be imposed on all revenue derived from land, by means of mines, manufactories, and other buildings, wharfs, docks, navigations, railways, or otherwise; and if a general tax on revenue ought to be imposed, the same ought to include revenue of every description, and not be partially and oppressively imposed on revenue derived from the produce of corn only, already more heavily burthened than revenue derived from any other source.

5thly, Because, although it has been pretended that the constant importation of foreign corn would tend to produce at all times more equal prices in the home market for each species of corn, whatever inequality in production might happen from unfavourable seasons or other causes, it is evident, from accounts which have been laid before the House respecting the prices of corn both in this country and in many other countries, that unequal seasons have everywhere produced unequal prices, and in a greater degree in many countries, in which the importation of foreign corn has been constant, than in those in which such importation has not commonly taken place; and it also appears that in this

country the prices of corn have been generally most equal when the home market has suffered least interference by the importation of foreign produce, and such prices have been subject to the greatest variations when the importation of foreign corn has been greatest; and as the prices of corn in this country must at all times principally depend on the production of the country in proportion to the consumption, (unless by destroying or greatly injuring its cultivation the country can be made wholly or in a great degree dependent on the production of foreign countries for the subsistence of its population,) every measure tending to injure the cultivation of the country, and consequently to diminish its produce, must tend to increase rather than to diminish those variations in price which are the unavoidable effects in every country of favourable and unfavourable seasons, or of increased or diminished cultivation, the first being beyond the power of human controul, and the latter being a necessary consequence of encouraging or discouraging cultivation, the effect of importation of foreign corn, if brought into home consumption, necessarily being to drive out of the market an equal quantity of home-grown corn, whenever the quantity of home-grown corn is sufficient for the consumption of the country, which is clearly demonstrated by the effect produced by the importation of foreign wool, in consequence of which the home growers of wool have now on their hands vast quantities of home-grown wool, which are wholly useless, in their stores.

6thly, Because this Bill appears to be part of a system of measures tending more immediately to injure the cultivation of the country, by allowing unrestrained importation of various articles of the agricultural produce of other countries, to the injury of the produce of this country, and particularly by the importation of foreign wool, hides, skins, tallow, butter, cheese, and other articles connected with the cultivation of corn, and on the profit derived from which the repayment of the expense of the cultivation of land for the production of corn, and consequently the just price of home-grown corn, must in a considerable degree depend.

7thly, Because, if the object of the Bill had been to relieve the necessities of the country, and not to encourage speculation, the rate of duties ought to have been differently constituted, and particularly the rate of duty imposed when the average price of

wheat should be 62*s.* and under 63*s.* the quarter should not have been diminished until the average had risen much higher, inasmuch as the rapid diminution of duty must tend to encourage the withholding corn from the market, for the purpose of increasing the average price, and thus lowering the duty.

8thly, Because by the statute of the fifteenth year of King Edward II it is declared, 'that all matters to be established for the estate of the King and of his heirs, and for the estate of the Realm and of the people, ought to be treated, accorded and established in Parliaments by the King, and by the assent of the Prelates, Earls and Barons, and the commonalty of the realm, according as it had been before accustomed;' and the manifest tendency of the principle on which this Bill, and various other measures proposed, have been founded, is to destroy the balance of the ancient Constitution of Government so declared, and by destroying that balance to place the government, even should it retain its ancient form, under the predominant controul of a commercial republick.

John Freeman Mitford, Lord Redesdale.

Charles Abbot, Lord Colchester.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

#### DCXXIV.

APRIL 17, 1828.

The Corporation and Test Acts Repeal Bill was read a second time this day and committed. The Bill was introduced by Lord Holland,—see Hansard, New Series, vol. xviii, p. 1450. The Act did away with the necessity of taking the Sacrament as a qualification for office (9 George IV, cap. 17), but it imposed a declaration obliging such persons as took office to pledge themselves not to use their authority so as to injure or weaken the Protestant Church.

The following protest was entered.

Because we think this Bill proceeds upon the alleged expediency of repealing the Sacramental Test, for the purpose of substituting, as a security for the support of the Established Church, (which is an essential part of the constitution of the State,) nothing but a declaration as to corporate offices which may be made by persons not Protestants, and not even Christians; and because also it does not render necessary even such a declaration to be made by any persons accepting offices and places of trust, but leaves it wholly in the

power of the Crown to require or not to require it to be made by any such persons.

John Scott, Earl of Eldon.  
George Kenyon, Lord Kenyon.  
John Cust, Earl Brownlow.  
George De Grey, Lord Walsingham.  
George Irby, Lord Boston.  
John Reginald Beauchamp Pyndar, Earl Beauchamp.  
James Edward Harris, Earl of Malmesbury.  
Henry Pelham Clinton, Duke of Newcastle.  
Edward Boscawen, Earl of Falmouth.  
Richard William Penn Assheton Curzon Howe, Earl Howe.  
William Murray, Earl of Mansfield.  
Philip Henry Stanhope, Earl Stanhope.

## DCXXV.

APRIL 25, 1828.

In the Test and Corporation Repeal Act, the words 'on the true faith of a Christian' were introduced in committee on the Bill, by the Bishop of Llandaff (Edward Coplestone), on the 21st of April. This addition was agreed to without a division, though strongly objected to by Lord Holland.

The following protest was entered.

1st, Because the introduction of the words 'upon the true faith of a Christian' implies an opinion in which I cannot conscientiously concur, namely, that a particular faith in matters of religion is necessary to the proper discharge of duties purely political or temporal.

2ndly, Because it appears from two Acts, the one passed in the 10th year of George I, cap. 4, and the other in the 13th year of George II, cap. 7, that the words 'upon the true faith of a Christian,' occurring in the Oath of Abjuration, have been dispensed with in cases which were found not to be within the spirit and scope of the original law; and it seems to me inexpedient to introduce unnecessarily into a declaration of this nature, a form of words which experience has shewn may produce effects not contemplated by those who impose it.

Henry Richard Fox Vassall, Lord Holland.  
Edward Harbord, Lord Suffield.  
George Capel, Earl of Essex.  
Henry Welbore Ellis, Lord Mendip (Viscount Clifden).  
Thomas Brand, Lord Dacre.

Augustus Frederic Fitzgerald, Viscount Leinster (Duke of Leinster).

John George Lambton, Lord Durham.

John Bligh, Lord Clifton (Earl of Darnley).

## DCXXVI, DCXXVII.

APRIL 28, 1824.

On the third reading of the Test and Corporation Acts an attempt was made to alter the Bill by relieving persons who declared themselves members of the Church of England from the declaration. The motion was rejected.

The following protests were entered on the third reading.

1st, Because if it is expedient that so much of the Acts recited in the Bill as imposes the necessity of receiving the sacrament of the Lord's Supper as a test that the party receiving it is a member of the Established Church should be repealed, some effectual provision ought to have been made by this Bill for the purpose of establishing that the persons who are to be placed in offices or employments are Protestants and members of the Established Church, to the intent to preserve the Constitution as it has been formed by the union of the Established Church with the State; and because the Bill not only makes no such provision, but creates only the necessity of making a declaration, which may be made by persons not even Protestants, and by persons denying some of the fundamental doctrines of Christianity as maintained in the Established Church, as to which Church it has been declared by law, at the time of the union with Scotland, not only that the doctrine, worship, discipline and government thereof, but that the true Protestant religion professed and established in the Church of England, should be effectually and unalterably secured.

2ndly, Because, it having been alleged in the debates upon this Bill, referring to the petitions which have been presented to the House, that persons cannot with due regard to liberty of conscience be precluded from holding offices in the State on account of their religious persuasions, we think it necessary to declare, that although every person ought to be at liberty to worship God according as his conscience may dictate, doing no injury to the State, we cannot admit that to the enjoyment of that liberty, rightly understood, it is necessary that those persons who only

profess that they will not in the exercise of any power, authority, or influence which they may possess by virtue of office, injure, weaken or disturb the Church, should be considered as equally eligible to offices in the State as those who are members of the Church connected and united with the State; it being moreover very possible that acts done by persons making such profession, which acts may disturb, weaken or injure the Established Church, may be acts which such persons might deem it their bounden duty to have done if they had not been placed in office, and which therefore it might be unreasonable to consider as acts done by virtue of their office.

3rdly, Because we think that whilst the State ought to secure to all who do not disturb the public peace complete liberty of conscience, it is perfectly consistent with such duty of the State to determine by what persons, subjects of it, the offices of State should be executed.

4thly, Because it seems to us much more probable that that peace which by the laws in being respecting the Church Establishment, and the toleration of those who dissent from it, has so long been enjoyed in this realm, notwithstanding all differences as to religious persuasions, should continue undisturbed if this Bill had been rejected, than it is that it should continue to be enjoyed after this Bill is passed into a law.

5thly, Because we think that the Bills of Indemnity which have been for some time annually passed, whilst they from time to time confirmed the policy of having some test as to the religious opinions of those who are to hold civil offices, did at the same time sufficiently relieve those who dissented from the Established Church; and though it seems to have been thought and assumed in debate that if this Bill passed into a law annual Bills of Indemnity would no longer be necessary, we conceive that experience will prove that such opinion is founded in error.

Ernest, Duke of Cumberland.

Henry Pelham Clinton, Duke of Newcastle.

George William Finch Hatton, Earl of Winchilsea and Nottingham.

George De Grey, Lord Walsingham.

John Scott, Earl of Eldon.

George Kenyon, Lord Kenyon.

Charles Duncombe, Lord Feversham.

John Cust, Earl Brownlow.  
William Murray, Earl of Mansfield.  
Edward Boscawen, Earl of Falmouth.

1st, Because by the law of the land, and especially by the solemn contracts made on the union of England and Scotland, and on the union of Great Britain and Ireland, the United Church of England and Ireland, and the Church of Scotland, as established by law, are parts of the Constitution of the Government of the United Kingdom; and it is declared that the doctrine, worship, discipline and government of the United Church of England and Ireland, as so established, shall be and shall remain in full force for ever, and the continuance and preservation of the said United Church, as the Established Church of England and Ireland, shall be deemed and taken to be a fundamental part of the union of Great Britain and Ireland.

2ndly, Because the Sovereign on the Throne of the United Kingdom is by law required to be a member of such Established Church, and to do all in his power to maintain that Church, as well as the Church of Scotland, and the ministers of both of those churches, in all their rights and privileges.

3rdly, Because this Bill has a direct tendency to the subversion of the Established Church of England and Ireland, and to compel the Sovereign on the Throne to adopt measures inconsistent with the safety of that Church, inasmuch as the object of this Bill is to give increased political power in the State to persons hostile to the doctrine, worship, discipline, and government of the said Church as now by law established; and the experience of all times has shewn that no institution of Government can long subsist in any State, unless supported by the predominance of political power vested in those who are friendly to that institution; and this has been fully proved in this country by long experience, and particularly in the reign of King Charles the First, when the predominance of political power in the two Houses of Parliament of England having been obtained by persons hostile to the Church of England as then established by law, the King was compelled by the influence of that power, in breach of his coronation oath, to give his royal assent to a Bill, intituled, 'An Act for disabling all persons in Holy Orders to exercise any temporal authority;' and whereby it was enacted, that no archbishop or bishop, or other person who then was or

thereafter should be in Holy Orders, should have any seat or place, suffrage or voice, or use or execute any power or authority in the Parliaments of the realm, nor should be of the Privy Council of his Majesty, his heirs or successors, or justice of the peace of oyer and terminer or gaol delivery, or execute any temporal authority by virtue of any commission, but should be wholly disabled and be incapable to have, receive, use, or execute any of the said offices, places, powers, authorities, and things aforesaid; and the persons hostile to the said Established Church of England who framed the said Act, and compelled the King to give his assent thereto, afterwards assuming to themselves the whole powers of the State, legislative and executive, by the appellation of the Lords and Commons assembled in Parliament, did by their ordinance, to which they attributed the force and effect of law, declare and resolve, 'That the then Church Government by archbishops, bishops, their chancellors, commissaries, deans, deans and chapters, archdeacons, and other ecclesiastical officers, depending upon the hierarchy, was an evil, and justly offensive and burthensome to the Kingdom, a great impediment to reformation and growth of religion, and very prejudicial to the State and Government of the Kingdom; and that therefore they were resolved that the same should be taken away, and that such a government should be settled in the Church as might be most agreeable to God's Holy Word, and most apt to procure and preserve the peace of the Church at home, and nearer agreement with the Church of Scotland;' the Lords and Commons then sitting as in Parliament, and who thus assumed sovereign authority, being then in alliance with the members of the Church of Scotland, who had invaded England with a hostile army; and the persons so assuming the sovereign authority did afterwards, in pursuance of such ordinance, make a further ordinance in the year 1646, abolishing the name and title of archbishops and bishops, and vesting the rights and properties of the archbishops and bishops of the Church of England in trustees, subject to such trusts and confidence as the persons then pretending to be the two Houses of Parliament should appoint; and the same persons by various ordinances assumed and exercised the power of directing the public worship in all churches and chapels, according to forms established by them, and of forbidding all persons to preach except ministers ordained according to their ordinance, and except persons allowed by themselves, under



the denomination of the two Houses of Parliament ; and afterwards certain persons stiling themselves the Commons of England, and assuming to themselves, exclusive of the Peers of the realm, powers which, by the ancient law of the realm, were vested only in the King, Lords and Commons in Parliament assembled, did proceed to ordain that the office of a King in this nation should not thenceforth reside in one person, and that the nation should be governed by its representatives or national meetings in council, in the way of a common wealth ; and did further declare, that the House of Lords was useless and dangerous to the people of England, and ordained that such House should be abolished ; and afterwards other persons differing in religious opinions from those who had thus assumed the whole powers of the State, but adverse also to the Church of England as before by law established, having obtained political power superior to the political power before enjoyed by those who had before assumed all the powers of the State, did create a new form of Government, placing at the head thereof a Lord Protector ; and thus from time to time, according to the prevalence of political power in the hands of different persons of different religious opinions, the country was involved in confusion for many years ; such transactions proving most clearly, that the peace of this country importantly depends on the existence of superior political power in those who are friendly to the Church established by law, and that giving political power to those whose religious opinions are hostile to the Established Church must tend to endanger that establishment, and the peace of the realm, and finally may overthrow the ancient form of Government now happily established by law.

4thly, That the laws sought to be repealed were expressly made to avoid similar destructions in the State, by excluding from certain offices, giving political power, persons holding religious opinions hostile to the Established Church ; and such laws were so made for the protection of such Church, and consequent preservation of the public peace, and were the result of the experience of those who framed those laws, of the danger of entrusting political power to persons hostile to the Established Church.

5thly, Because political power is the creature of political institutions, and when in any country political institutions forming the Government of the country have been established, every alteration

in those institutions, departing in principle from the institutions before adopted, and tending to change the balance of political power in the State, is so far a revolution in the government of the State, and may, in proportion to the extent of the change made, tend to produce further revolution in the State; and therefore changes which may appear not to be in themselves of considerable importance, may by their effects produce such further changes as may finally overthrow the whole constitution of the State.

6thly, Because the perpetual endurance of the United Church of Great Britain and Ireland being by solemn contracts a fundamental law of the State, those who on the ground of religious opinions refuse to submit to the laws made for the preservation of that Church, might with equal propriety allege religious opinions as warranting them in refusing to acknowledge the authority by which the perpetual endurance of that Church has been made a fundamental law of the State, or in refusing to acknowledge the title of the King on the Throne, and of a Parliament convened by him, on the ground of hereditary right to the Throne, which they may suppose to be vested in the heir of the body of King James the First.

7thly, Because as long as religious or political opinions influence the minds of men, so as to render them hostile to any of the existing establishments of a State, such men cannot be truly loyal subjects of that State to the establishments of which they are so hostile, and cannot therefore be safely trusted with political power, by means of which they may disturb the tranquillity of the State, and endeavour to overturn any of its political institutions, placed by the law of the State under the protection and controul of its Government.

8thly, Because congregations of persons dissenting from the Established Church, but professing to be of some particular denomination of Christians, form, by their union under such denomination, a body which is in effect a corporation, but a corporation not regulated by law, nor as a body under the controul of the law, and yet professing in a great degree the influence and power of a corporation authorized and regulated by law, and capable of acting with a power which does not belong to individuals, or even to the same number of persons not so associated; and the union of many such bodies, however differing from each other in matters of

faith or discipline, may form a power in the State highly dangerous not only to the Established Church but also to the general peace and good order of the State, especially if urged by religious zeal to desire any change in the established religion, or in the doctrines and discipline thereof, which may tend to the overthrow of the established government, and breach of the solemn contracts entered into on the union of England and Scotland, and the union of Great Britain and Ireland, contracts which every loyal subject of the Crown is bound to maintain, and which the Prince on the Throne cannot consent to violate without a breach of his coronation oath.

John Freeman Mitford, Lord Redesdale.  
George Kenyon, Lord Kenyon.

## DCXXVIII.

MAY 1, 1828.

On this day Lord Darnley moved for a Committee to enquire into the state of the distressed population of Ireland. His speech on the subject is in Hansard, vol. xix, New Series, p. 239. He was opposed by Lord Limerick (who charged Lord Darnley with a wish to introduce the Poor Laws into Ireland), Lord Lorton, and the Duke of Wellington. The motion was not pressed.

The following protest was entered.

Because it has been asserted in debate, and offered to be proved on oath, that in consequence of the want of any adequate provision in Ireland for the relief of the impotent and sick poor, many such do actually perish in the streets and highways; it therefore appears to me to have been the indispensable duty of the House to institute the proposed inquiry.

John Bligh, Lord Clifton (Earl of Darnley).

## DCXXIX—DCXXXI.

JUNE 13, 1828.

The Corn Law Importation Act, 9 George III, cap. 60, contains forty-eight clauses, and an elaborate sliding scale of duties, from 25s. 8d. at 62s., increasing by a shilling for every shilling less, down to 1s., when wheat is at 73s., barley 13s. 10d. at 33s., with a shilling to 1s. at 41s. &c. The duties on colonial corn are 5s. up to 67s. and 6d. a quarter

above; 2s. 6d. and 6d. for barley at 34s. or above, &c. The Duke of Wellington introduced the Bill, and moved its second reading, which was carried by 86 to 67.

The following protests were entered.

1st, Because the principle of the existing Corn Law, by which foreign corn is excluded from the markets of this country until the average price indicates a deficiency of the produce, is wise and beneficial, and, by affording protection to the cultivation of the soil, tends to secure an abundant supply of its produce at as low a price as is practicable under those burthens which press so heavily upon this country.

2ndly, Because the new system which it is now proposed to substitute for the former, and which would allow foreign corn to be bonded at all times without payment of any duty, and to be brought at fluctuating rates of duty into the markets of this country, is dangerous in its principle, and might give rise to mischievous speculations, and would by the uncertainty of its operation destroy the confidence and security of the owners and occupiers of land.

3rdly, Because such a system discourages British agriculture, and thus leads to an extensive and habitual dependance upon foreign nations for the supply of the first necessities of life; and such dependance is neither salutary nor safe, and might, in the event of war or of unfavourable seasons, expose this country to all the horrors and calamities of actual famine.

4thly, Because the same system which last year was carried into execution for a limited period, and under which 561,393 quarters of wheat were admitted for home consumption, was found by experience to produce evils that were not apprehended by those who recommended its adoption, and to create severe distress in many districts, by lowering very materially the average price of wheat, which had not for some months preceding afforded a due remuneration to the cultivator.

5thly, Because the proposed measure was not accompanied by any Parliamentary enquiry upon the remunerating prices of different districts with reference to the expenses of cultivation, and to the various public burthens which are imposed exclusively upon land, although such an investigation was indispensably requisite from every consideration of justice towards all the classes whose rights and interests are affected.

6thly, Because a vast number of agricultural labourers might by the proposed measure be deprived of the means of exerting their honest industry, and of providing for their independant support, and driven to seek a scanty and degrading subsistence from the poor's rates, which have already become so burthensome from the want of sufficient employment for a rapidly increasing population.

7thly, Because it is requisite for the interests of Ireland, of which the corn has for some years past been exported in very large quantities to Great Britain, that they should not be injured by an unequal competition with foreign grain.

8thly, Because the interests of the manufacturers might be extremely injured by the proposed measure, as it might diminish to an immense extent the consumption of the home market, which purchases manufactured goods to the amount of four-fifths of the whole quantity that is produced.

9thly, Because large purchases of foreign corn might take place under the proposed measure, without extending the export trade of the country, which might be drained of specie, by purchasing in large quantities articles which it can itself produce, and which it cannot cease to produce without injury to many branches of its own industry, and without injustice to those who are engaged in them.

10thly, Because the proposed measure might very greatly and very unjustly increase the pressure of all the existing taxes and other burthens to which the owners and occupiers of land are now subject, and which are already more onerous than they were towards the close of the late war, and by considerably reducing their means of paying taxes might injure the public revenue, and render precarious, if not impossible, the payment of the public creditors.

Philip Henry Stanhope, Earl Stanhope.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

George Kenyon, Lord Kenyon.

James Edward Harris, Earl of Malmesbury.

1st, Because the Bill imposing high and most unreasonable duties on the importation of foreign corn is most impolitic if intended as a source of revenue, inasmuch as taxes laid upon the necessaries of life increase the cost of labour, diminish the profits of capital, and are the immediate cause of general decay and

impoverishment; it is most unjust if intended to enhance the price of corn for the advantage of individuals, inasmuch as a monopoly for that purpose is opposed to the first principles of legislation, and invades the right of the community at large.

2ndly, Because it is an abuse of the legislative power, held in trust for the public good, to enact laws calculated to promote the private advantage of any one particular order; the use of law is to secure equally to all classes the fruits of their labour and industry; the abuse of law is to take away, either directly by unnecessary or unequal taxation, an undue proportion of the produce of the labour of the community, or indirectly to compass the same end by odious and destructive monopolies, conferring exclusive privileges to one order at the expense of all other classes of the community; if the landowners have an undoubted right to the property they possess, and to the absolute disposal of the produce of that land, the population of the country has not less an undoubted right to obtain their supply of food either from the home producer, or from any other who can afford to deliver it at the cheapest rate.

3rdly, Because the present Bill affords no expectation of establishing a final settlement of the Corn Laws, so desirable and necessary for the country, after suffering the evil of monopoly, fluctuation and uncertainty for a period of thirteen years, but utterly hopeless until the proposed laws shall be consonant to sound policy, common right, and equal justice.

4thly, Because a varying scale of duties has the effect of making the importation of corn irregular, on account of the apprehension of unfavourable, or the expectation of favourable opportunities, whereas a moderate fixed duty would encourage a large investment of capital in the corn trade, and thereby afford the best security which the nature of the commodity allows of obtaining steady prices, no less desirable to the consumer than to the producer of grain.

Peter King, Lord King.

1st, Because this Bill, as well as that of last year, proceeds on the assumption that we must at all times depend upon foreign industry to furnish a portion of the necessary supply of the nourishment of our fellow subjects, and thus, in contempt of

the well-ascertained fact, on which the Legislature of this country has hitherto proceeded, that the United Kingdoms of Great Britain and Ireland are, in ordinary years, with due encouragement, capable of producing an abundant supply of food for the sustenance of our population, introduces a principle of legislation heretofore unknown in the regulation of our commerce in grain.

Hitherto the Legislature of this country, conscious of the danger of trusting to foreign powers for the constant supply even of a portion of that article of first necessity, and aware that in years of general scarcity, which frequently take place, an habitually importing country is in danger of being deprived of a part of its supply at a time when it is most required, and that in years of general abundance it will be inundated with such a quantity of foreign produce as will, by discouraging its industry, diminish its internal production, has only looked to foreign supply as a means of guarding against impending scarcity.

But this Bill appears to us, and has been declared by its supporters, to be grounded on an opinion of our incapacity to provide a sufficient supply of grain for the people of this country, and on this principle contemplates constant importation, without regard to the danger of rendering us dependent on foreigners for a part of our annual supply, which in years of abundance will be so profuse as to discourage our industry in a manner that must diminish our internal production and increase our demand for foreign supply, whilst, in the hour of general scarcity, when we most want it, it is sure to be withheld, and thus to convert what under our former system would have exhibited only a temporary scarcity into a scene of distressing want, bordering on famine.

2ndly, Because, though we sincerely believe that, on this important subject of regulating our commerce in grain, there is no member of this House who is not actuated by an anxious desire of permanently securing to the people of this country that article of first necessity at the lowest and at the steadiest possible price; we cannot bring ourselves to think that this salutary object can be attained by the measures which this Bill enacts.

On reverting to all that has been said on the subject of securing to the community an abundant supply of grain at a reduced price, it seems to us that there are two distinct means

by which it has been argued that this desirable end can be accomplished :

1. There are those who contend that a supply of that article of first necessity will be procured for our fellow subjects at a comparatively low price, by admitting grain to be at all times imported from foreign countries, whose favourable situation in respect of climate and soil, as well as the absence of that burdensome taxation under which we labour, enables the grower of grain to produce it at a much smaller expense.

2. There are those who conceive that this salutary object can be best obtained by the encouragement which direct prohibition, or duties, amounting to a prohibition up to a given price, afford to our internal industry ; the system under which this country has obtained a superiority over all the nations in the world in the cheap production of every other article of industry.

To us it appears that this Bill, which admits of a constant importation, and contemplates a great mass of foreign grain lying at all times in our warehouses, ready to take advantage of those fluctuations in the rate of duty, under the intended graduated scale, which either naturally occur, or may be artificially created, looks to obtaining what we all in common desire, by resorting to the first of these means of reducing price ; whilst we are strongly impressed with the opinion that the second is the only means by which a reduction of price can be obtained without the sacrifice of national wealth and prosperity.

By adopting the first of these modes of proceeding, we are ready to admit that a reduction in the price of grain may be for a time effected ; but the discouragement it will give to our internal agriculture, which has heretofore mainly supplied our markets, must diminish the quantity of our produce, and will therefore rapidly counteract the effects of the diminution of price to which the additional supply will at first give rise, whilst that diminished production must soon affect the profits of the farmer and the rent of the landlord, and induce them to dismiss from employment a proportion of those who derive their livelihood from agricultural labour, which cannot fail, by the abundance it must occasion of unemployed labourers in proportion to the demand for them, to diminish the wages of labour ; and it is impossible not to perceive that this reduction of the wages of labour, of the profits of the



farmer, and of the rent of the landlord, must directly affect the gain of all those tradesmen and manufacturers with whom they are accustomed to deal, leaving to the poorer orders a smaller power of enjoyment than they possessed when the price of grain was comparatively high, but when the flourishing state of our agriculture secured to the labourer, and to the retail dealer, a far higher amount of wages and of profit than under such a change of circumstances can be expected; and that the real opulence of the lower orders consists in the superior amount of comforts and conveniences which their labour and profits enable them to command, is a proposition on which we cannot entertain a doubt.

Neither does it appear to us that we can with certainty look forward to the duration, for any length of time, of this foreign supply of cheap food; for whenever the diminution of our own production renders us dependent on foreigners for subsistence, they will soon perceive, as has heretofore happened, that their national treasury can be supplied out of the pockets of the people of this country, by taxes imposed on the exportation of that of which, at any price, we must, in consequence of our own imprudence, be compelled to obtain possession.

By adopting the second of those modes of effecting the object we all wish to obtain, admitting that it may for a time sustain the price of grain, it does not follow that this effect will be permanent.

On the contrary, we have the authority of the author of the *Wealth of Nations* for saying, 'That if the complete improvement of the country be, as it certainly is, the greatest of all public benefits, a rise in the price of all sorts of rude produce, instead of being considered as a public calamity, ought to be regarded as the necessary forerunner and attendant of the greatest of all public advantages;' an opinion in which we entirely concur; for it appears to us that the remuneration which this system aims at securing must not only excite the industry of those whose capital is embarked in agriculture, but must have a tendency, from the certainty of the profit to be realised in the growing of grain, to induce others to embark their capital in a line which holds out the prospect of a permanent and comparatively uniform return; and as we cannot doubt that this increased industry and application

of capital must secure a great addition of produce, so it is impossible not to believe that this augmentation of supply must diminish the value of those articles which it is the professed object of this Bill to reduce. Of the justice of this reasoning, the experience of what has taken place in this country leaves us no doubt, as for years we know that the judicious protection of the home grower of grain secured the improvement of our soil, whilst it furnished an ample supply of grain at a comparatively steady and gradually reduced price; and it is notorious that in our cotton manufactures, protected in a manner that left no room for foreign competition, we have seen improvements which have excited the admiration of the world, whilst we have witnessed the price of the various articles prepared for the market reduced to a degree that what was formerly only suited to the decoration of the wealthy, is now within the reach even of the lowest orders of the community.

We cannot, therefore, approve of the mode of diminishing the price of grain which this Bill adopts, because it appears to us that it has a direct tendency to curtail that steady demand in the home market for the productions of our industry, which must abridge the gains of every class of our fellow citizens; for the home demand is the real source of the employment of four-fifths of our manufacturers; and we feel ourselves called upon to protest against the dereliction of the principle on which our corn laws have for years proceeded, of giving security to the home grower against foreign competition, till it attains a price that indicates approaching scarcity; a system which, whilst it tends to reduce the price of grain, may, even at the moment the reduction takes place, leave the growers of it in possession of a larger receipt of revenue than they antecedently enjoyed, and thus enable them, by increased expenditure, to encourage the production of all other branches of industry; for if, by the further use of machinery or of improvements in the application of capital and in the mode of cultivating the soil, the growers of grain can acquire the same quantity of it with a diminished expenditure, though the price of the commodity is reduced, a larger balance of profit may, after such a reduction, remain in the farmers' hands, to be employed in the purchase of, and of course to increase the demand for, all the other objects they may wish to acquire.

Whilst we look back, therefore, with regret at the abandonment

of this system of legislation, which seems to us to be a means of at once reducing the price of grain and of increasing the opulence of the country at large, we cannot, without anticipating the most serious injury to our country, see the introduction of a new system, which, in our judgment, can only for a time reduce the price of grain at the expense of retarding the improvement of the country and diminishing the wealth of the community.

3rdly, Because, waiving all consideration of the comparative merits of the graduated scale of duties as contained in the Bill of last year, with that which it is proposed to enact in the Bill now before this House, the former of which obviously affords greater protection to the agriculturist in one state of the markets, and the latter in another, it is our opinion, that neither of these graduated scales, combined with the privilege of warehousing grain to be carried into our markets at any time when the duty may make it most advantageous for the foreign merchant to take it out of bond, can afford a fair and adequate protection to the home grower of grain.

We conceive that grain is the commodity, the value of which in every country depends most exclusively on its abundance or its scarcity.

The superabundance of an article of luxury, by the reduction of its value, creates a new source of demand on the part of those who could not previously afford to consume it, which must inevitably counteract the effect of its abundance.

The scarcity of an article of luxury, by raising its value, must make many withhold from indulging in the use of it, who could antecedently afford to enjoy it, which naturally diminishes the rapid elevation of its value that would otherwise take place.

But the demand for grain, which forms the chief nourishment of man, cannot, from these causes, sustain similar variations, for whether there exists abundance or scarcity, the quantity of food which a man must necessarily desire for sustenance is nearly the same.

Grain too is, in our opinion, the article of all others the abundance or scarcity of which depends the least on human exertion; for with every degree of industry the hand of nature will inflict in one country a scanty supply in the season it is most bountiful to another.

It is these considerations which (with all due caution in pronouncing an opinion in regard to a novel arrangement, of the effects of which we have no experience) incline us to think, that this system, which fixes the duty according to the price at the time grain is taken out of bond, must be ruinous to the home grower, for it brings into competition with the produce of his industry in raising a commodity which more than any other must fluctuate according to its abundance or scarcity, not the foreign produce of one year, but that of many, and thus multiplies the chances of our agricultural industry being exposed in a year of domestic scarcity to compete with a year of foreign abundance, to an extent that must render the protection to be derived from the proposed graduated scale nugatory and inefficacious; for giving credit to mankind that they will always consult their own individual interests, as there is in this country at all times abundance of capital ready to embark in speculation, it seems to us certain that overwhelming quantities of grain will be lodged in our warehouses whenever an abundant year has reduced the value abroad, where it will be kept in store, watching for a season of scarcity to be brought into our markets at a diminished duty with an enormous profit, to the destruction of our agriculturist, who, at a time when his produce is diminished, can alone be remunerated for his outlay of capital by the increased price, which, independent of this artificial arrangement, a scarcity of produce would naturally occasion; and it is plain and obvious that this loss of capital invested in agricultural pursuits, cannot fail to diminish that source of supply which has heretofore, even in the worst of times, furnished more than nineteen-twentieths of our consumption; whilst by the continuance of the same practice, and the sure recurrence of the same calamity, this country must become gradually more dependent on foreigners for subsistence, and the supply of food for the people will be necessarily more precarious.

Besides it appears to us certain, that if the regulations contained in this Bill for the conduct of our commerce in grain should pass into a law, all speculation in that commodity must in future be confined to that which is of foreign growth and in the hands of the foreign merchant.

Long before it is prepared for the market, the home grower of grain has incurred all the expense of raising it, whilst the merchant

importer, when he brings it into this country, gets for a length of time credit for the comparatively small prime cost of the grain he has purchased abroad; and he is not to be called upon for any part of that duty, which constitutes in many cases so great a proportion of its value, till it is about to pass into the hands of the consumer. In the meantime, therefore, he holds it with an advance of capital, trifling in comparison with that which would be requisite to hold a similar quantity of home-grown grain; and those who are acquainted with trade, either foreign or domestic, well know the loss and discouragement that such an arrangement must inflict upon the proprietor of that share of the commodity on which this comparative hardship is imposed.

Neither can we conceive on what ground this formidable innovation on our law is now thought necessary, for the price of grain, from the time of passing the Act 1815, has been unusually moderate; wheat, on an average of the twelve years that have since elapsed, not exceeding 65*s.* a quarter, and on an average of the last eight years amounting only to 57*s.* a quarter, whilst all other grain has been reduced in a similar proportion, and our supply from Ireland, which it is our interest and our bounden duty to encourage, has been greatly increasing.

It has indeed been stated, that, under the existing law, if grain rise to the price at which it can be entered for home consumption, such a mass will be immediately taken out of bond and imported as will for a length of time hang upon the market, to the destruction of our domestic industry: but this evil, which certainly has not lately been experienced, and which may occur even under the present arrangement, might have been easily rectified, if it had really existed, by a graduated scale of the quantity to be imported.

It has also been said, that the constant recourse which has been had to special laws, authorizing temporary importation, shows the defect of the system; but in our opinion it remains to be proved, whether these laws have not been unnecessarily resorted to, to make a case against a system which so many were anxious to destroy; and, as far as we can judge from the price of grain, which is the best criterion of its quantity, there would not have been any serious scarcity of it, even if the Legislature had not had recourse to these temporary sources of supply.

On all these considerations we venture, even at a time when we

are conscious that, in the perverted ideas of many, the successful working of a system seems to furnish rational ground for condemning it, and when the experience of the past is treated with a most liberal degree of contempt, to record our unfeigned dread of the calamity which we fear will result from the repeal of our present Corn Laws, and the substitution of this measure, founded on novel theories, the effects of which, in our opinion, must be injurious to the interests of the community; and we feel it our duty to express our regret that, in these times, we unfortunately perceive many who used to recommend themselves by enthusiastic admiration of those institutions under which we have the happiness to live, and by kindness and hospitality towards their neighbours, are now trusting to acquire their favour by the support of this and of similar theoretical experiments, which, from the uncertainty of the result, must check the exertions of the industrious, and retard the improvement, if they do not ultimately terminate in the ruin, of the country; whilst we see with extreme pain, that this alarming measure is still persevered in, notwithstanding we have fortunately got rid of those Ministers of the Crown to whom we mainly ascribe, and who, indeed, assume to themselves the merit of its origin; some of whom appear to us to have long relinquished the sound and salutary practice of endeavouring to command influence by a vigorous defence of institutions, which experience has shown to be salutary; and, unfortunately for the country, even at the expense of abandoning their recorded opinions, to have aimed at acquiring favour by encouraging the prejudices of the moment, and supporting experiments dictated by that impatient irritation and desire to grasp at schemes of relief, to which a temporary derangement in the finance of a country will always give rise; but which, with firm and steady reliance on the wisdom and efficacy of our political institutions, and on the industry and energy of our fellow subjects, would as heretofore soon pass away.

For we must recollect that when the debt of the country was larger than it is at present; when there existed all those alleged defects in the representation of the people, which we now think it necessary to attempt amending; when there subsisted that Corn Law we are now reprobating as ruinous; and when grain bore a higher price in our markets than it does at present; his Majesty, in his Speech from the Throne informed us, 'That our agriculture,

our commerce, and our manufactures, were in a flourishing state; and that at no former period of our history did there ever prevail, throughout all the classes of the community in this island, a more cheerful spirit of order, or a more just sense of the advantages which, under the blessing of Providence, they enjoyed;’ an opinion which, in the year 1824, was re-echoed by Parliament, and subscribed to by the country at large.

James Maitland, Lord **Lauderdale** (Earl of Lauderdale).  
Philip Henry Stanhope, Earl **Stanhope**.

## DCXXXII.

JUNE 26, 1828.

The following protest was entered against the passage of the Corn Law Bill of 1828.

1st, Because the numerous and weighty objections to which the proposed measure is justly liable have not been lessened by the provisions of the Bill itself, which afford no security whatever against the injury and injustice which must be apprehended to arise from its enactment.

2ndly, Because the prices which those who have supported the measure consider to be the remunerating prices of different sorts of grain would not under its operation be their average prices, inasmuch as foreign corn might be brought into the markets of this country whenever British corn is sold at such prices as would, upon an average of the whole preceding year, give due remuneration to the cultivator. It is indeed obvious, although it does not appear to have received the attention of those with whom the measure originated, that a price below which corn has continued during many months, and above which the proposed measure would not allow it to rise, except during short periods, could not be its average price, but might more justly be termed its maximum.

3rdly, Because the duties imposed upon all species of grain, and particularly upon spring corn, are quite inadequate to the protection of the growers of corn in this country, and to the exclusion of foreign corn, even when the prices in the home market have not, upon an average, been such as to remunerate the cultivators of the soil.

4thly, Because the mode of taking the average prices of grain tends to allow the introduction of foreign corn, when, according to the proposed scale of duties, it might altogether be excluded; and that mode is manifestly unjust, because the corn returns are not to be obtained from Scotland and Ireland as well as from England and Wales, in both of which there are several counties from whence no returns are to be sent, and also because those returns are not to be obtained from sales made only by the growers of corn, as ought to be the case, but also from those made by corn dealers, factors, and others, who add to the prime cost of the article the charges of commission, carriage, &c.

5thly, Because the amount of duty imposed upon foreign corn when admitted for home consumption, ought to be fixed by the average price in the home market at the time when such corn was imported, and not by the average price at the time when such corn is, at the option of the importer, taken from the warehouses; the importer of foreign corn would thus receive an unfair advantage, and would be enabled to compete upon unequal terms with the growers of corn in this country, and would also be encouraged to speculate in order to obtain the release at a very low rate of duty of a large quantity of corn, which he might have in warehouses, and which cannot always be kept there without decay and ultimate destruction.

6thly, Because the Bill does not contain any provisions with respect to the Isle of Man and other Islands, to prevent foreign grain from being there converted, without payment of any duty, into flour or meal, which might be sent from those Islands to Great Britain or Ireland, where it would be admitted duty free, to the detriment of the revenue, and in violation of the principle of the proposed measure; and it is well known that this practice existed under the temporary measure adopted last year.

Philip Henry Stanhope, Earl Stanhope.

DCXXXIII.

JULY 3, 1828.

By 9 George IV, cap. 65, promissory notes for less than £5, issued in Scotland and Ireland, were not to be uttered in England under a penalty of £20. The following protest was entered against the second reading.



Because this Act will materially obstruct the necessary intercourse between the inhabitants of the English borders and the neighbouring market towns in Scotland.

2ndly, Because it is a wanton extension of our penal code, already over-charged, by which many will be injured and nobody benefited.

Henry George Herbert, Earl of Carnarvon.

## DCXXXIV.

JULY 7, 1828.

The following protest is entered against the third reading of the Scotch and Irish Note Bill.

Because to a wealthy and commercial State, encumbered with a great debt, a paper currency, measured by a metallic standard, is the safest as well as the most advantageous circulation.

It is the safest, because in times of panic, or of adverse exchanges, a metallic currency is the first to disappear and the last to return.

It is the most advantageous, because, in a State so circumstanced, an extended currency is an essential part of the machinery necessary for production; and to compel the producer to use a more costly instead of a cheaper circulation is the same thing in effect as to prohibit the use of improved machinery in manufactures or in husbandry.

Henry George Herbert, Earl of Carnarvon.  
Washington Shirley, Earl Ferrers.

## DCXXXV, DCXXXVI.

JULY 16, 1828.

The occasion of the following protests was a motion of Lord Holland to obtain information by an address for papers, first on the relations of Greece, Russia, and Turkey; and next on the condition of Portugal. Lord Holland took occasion in the course of his speech to use very strong language about the Turkish Government, and to comment on the blockade of Oporto. The motion for papers was rejected.

1st, Because when the national faith is engaged in the prosecution of so important an object as the pacification of a Christian and European country, it is not usual to withhold from Parliament

for any long space of time all communication of the issue or progress of his Majesty's efforts to attain that object, without some explanation of the circumstances which retard such communication or render it unseasonable and impolitic.

2ndly, Because the Governments of Russia and France have explained to their subjects and Europe, not only their views of the obligations contracted and the objects proposed by the Treaty of the 6th of July, 1827, but the degree, extent, and manner in which such views have been affected by the new situation in which subsequent events, and a change in their relations to one another or to the Ottoman Porte, have placed them respectively; and it seems to me that a public avowal of a corresponding feeling in his Majesty's Government is required, if not to maintain the honour of his Crown, and to preserve entire the confidence of his allies, at least to promote the just and benevolent design announced in the Protocol and Treaty, of rescuing the Greeks from the consequences of a protracted and barbarous warfare, by permanently separating them from the Turks, and securing to them, though tributary to the Ottoman Porte, the nomination of their own rulers, the administration of their internal affairs, and the full enjoyment of freedom of trade and liberty of conscience.

3rdly, Because, as the neglect on the part of Great Britain of the obligations contracted by the Treaty of the 6th of July, 1827, would be equally derogatory to the honour and injurious to the interests of the Crown, so the appearance of any such change of policy in our Councils would tend to impair the influence of his Majesty's name in foreign countries, to loosen the bonds of union and alliance so happily established between Great Britain, France, and Russia, and thereby to cloud the prospect of permanent peace which the cordial concurrence of those three great Powers, in such just and benevolent views as secure the approbation of mankind, hold out to Europe and the world.

Henry Richard Fox Vassall, Lord Holland.

1st, Because the late revolution in Portugal, so inauspicious to the maintenance of our ancient relations and close connexion with that country, appears to have been begun in the presence and effected on the removal of his Majesty's military forces; and that just and natural interest which the Parliament of Great Britain has

ever taken in the safety, independence, and welfare of his Majesty's oldest ally, seems to entitle this House to some information respecting the nature of the obligations which subsisted between his Majesty and the persons who have assumed the regal authority in that Kingdom, as well as of such claims or remonstrances as the Emperor of the Brazils, or his daughter, the Queen Maria da Gloria, may have communicated to his Majesty in consequence of the recent usurpation of their title or authority in Portugal.

2ndly, Because the rejection of a motion for information respecting Portugal, in the present circumstances of that Kingdom, implies an indifference in Parliament to the state of our relations with foreign Powers, and such indifference appears to me at all times as little calculated to avert the necessity of war, as it is obviously ill suited to maintain the national dignity, or to raise the honour of his Majesty's Crown during peace.

Henry Richard Fox Vassall, Lord **Holland**.

## DCXXXVII.

FEBRUARY 24, 1829.

The Speech from the Throne announced that an association existed in Ireland which was dangerous to the public peace, and inconsistent with the spirit of the Constitution. The association referred to was that of the Catholics. On the 10th of February, Peel introduced the Bill for suppressing dangerous associations in Ireland. It passed the Commons on the 17th of February, and the Lords on the 24th of February, and without a division. It is 10 George IV, cap. 1. Lord Redesdale, the author of the subjoined protest, opposed the Bill, on the ground that the law was sufficient to deal with the association, and that the Irish priests could easily evade the Bill.

1st, Because the avowed object of this Bill, as expressed in the preamble, is to suppress an association described in his Majesty's gracious Speech to both Houses of Parliament as dangerous to the public peace and inconsistent with the true spirit of the constitution, keeping alive discord and ill-will amongst his Majesty's subjects, and obstructing every effort permanently to improve the condition of Ireland; and such an association is by the common law of the land an unlawful association, and therefore might have been long ago suppressed, and might now be suppressed, by the exertion of those powers which the common law of the land has given to his Majesty for the maintenance of his just authority, if

such powers had been and if such powers were now duly and properly used for that purpose; and therefore the extraordinary provisions contained in this Bill are unnecessary and improper, unless there existed and still exists some obstacle, not suggested in this Bill, to prevent the due execution of the common law for the suppression of the unlawful association described in this Bill, and the punishment of the persons engaged in such association.

2ndly, Because the association sought to be suppressed by this Bill has been manifestly an instrument of the Roman Catholic priesthood in Ireland, many of whom have attended the meetings of such association, and most of whom have assisted in the collections of money for the purposes of such association; and such priesthood have long exercised uncontrolled authority over his Majesty's Roman Catholic subjects, and endeavoured to bring into contempt his Majesty's authority as the only lawful Sovereign of the realm, with and under the authority of his Parliament, and have avowed their intent to destroy the Protestant Religion, which they have endeavoured to bring into hatred and contempt, by stigmatizing the same as a pestilent heresy, hateful to God and man, and which the Almighty Power is about to sweep from the face of the earth; and if there has been any obstacle to the due execution of the common law for the suppression of the association described in the Bill, such obstacle has arisen from the influence and conduct of such priesthood, and not from any defect in the common law of the land, which has given to his Majesty powers amply sufficient for that purpose; and therefore due restrictions on the powers and influence of the Roman Catholic Priesthood are the proper means for giving to his Majesty power to assert his just authority by the common law, to suppress the association sought to be suppressed by the extraordinary powers proposed to be given by this Bill.

3rdly, Because the powers given by this Bill are utterly insufficient for the purposes proposed by the Bill; and if the Bill could have any effect in suppressing by name and in the aggregate the association particularly described in the Bill, or any other association of Roman Catholics for the same purposes, and thereby preventing their assembling in the aggregate, it will not prevent their assembling and acting in a different form for the same purposes.

4thly, Because it is not the name or any particular form or mode

of its constitution which renders the association mentioned in the Bill, or any association for similar purposes, dangerous to the public peace, but the object of such association, and the conduct of its members; and the members of the association described in the Bill have openly declared their intention to avoid any attempt for their suppression, particularly by meetings in their chapels and places of public worship, avowedly only for the purposes of religious devotion, and by using the forms of religious devotion accomplishing all their purposes, without apparently infringing the precise provisions of any positive law or any proclamation issued for their suppression.

5thly, Because it is vain to attempt the suppression of the association specified in the Bill, or any association constituted for similar purposes, if the same cannot be suppressed by the force of the common law, especially as long as the Roman Catholic priesthood in Ireland, who are the real authors and abettors of the association specified in the Bill, shall, under a foreign authority, assume powers over the Roman Catholic laity in Ireland inconsistent with due subordination to his Majesty's government; and therefore a law compelling due subordination of such priesthood to his Majesty's authority is the only means by which the mischievous effects of such associations can be avoided, if the powers given by the common law are not sufficient for the purpose, or are evaded or rendered null by the influence of the Roman Catholic priesthood over the minds of his Majesty's Roman Catholic subjects.

John Freeman Mitford, Lord Redesdale.

### DCXXXVIII.

MARCH 31, 1829.

The Roman Catholic Relief Bill was introduced into the House of Commons by Peel, who, on the 5th of March, moved that the House resolve itself into a Committee of the whole House to consider of the laws imposing civil disabilities on his Majesty's Roman Catholic subjects, carrying his motion by 348 to 160; see Hansard, New Series, vol. xx. The Bill was brought in on the 10th of March, in accordance with the resolution of the Committee, *ibid.* p. 942. The second reading was carried on the 18th of March, by 353 to 173. The third on the 30th of March, by 320 to 142. It was read in the Lords for the first time on the 31st of March, and an order for a summons made for the 2nd of April. On this the following protest was entered.

1st, Because this order has been moved with a view to reading a second time on Thursday next the Bill intituled 'An Act for the relief of his Majesty's Roman Catholic subjects,' which has been read a first time on this day, and that Bill importantly affects the rights and powers of the Crown, the security of the Established United Church of Great Britain and Ireland, the security of the Established Church of Scotland, and the protection of the Protestant Religion, as professed by Protestants of all denominations within the United Kingdom, and affects also the independence of the United Kingdom of all foreign interference with its internal government; and therefore an order for summoning the Lords with a view to the second reading of this Bill on Thursday next, allowing only one day between the first and second reading of this Bill, tends to prevent a deliberate consideration of the propriety of the measure proposed.

2ndly, Because this Bill appears essentially to affect fundamental articles in the treaties of union between the once separate kingdoms of England and Scotland, and between the once separate kingdoms of Great Britain and Ireland, all forming now one United Kingdom; those unions having been formed under the distinct authorities then existing, acting and contracting for and on the behalf of the people of each Kingdom; and therefore ample time ought to be allowed to the people of each of those countries, once separate Kingdoms, and particularly to the people of Scotland and the people of Ireland, to lay before the House any objections, on their parts, to the Bill passing into a law in the form in which it has been sent to this House, and especially so far as any provisions in the Bill may directly or indirectly affect the solemn compacts by which the three Kingdoms have been finally united in one Kingdom.

3rdly, Because the time proposed to be allowed between the first and second reading of this Bill is shorter than the time usually allowed between the first and second reading of a Bill of any public importance, unless a pressing necessity, arising from some important cause, required immediate interference of the Legislature; and as no such pressing necessity has been alleged, the order for summoning the Lords with a view to the second reading of this Bill on Thursday next, allowing only one day between the first and second reading of the Bill, appears to tend to prevent a just and

fair discussion of the principles on which the Bill may be supported or opposed.

John Freeman Mitford, Lord **Redesdale**.  
 George Kenyon, Lord **Kenyon**.  
 Ernest, Duke of **Cumberland**.  
 Francis North, Earl of **Guilford**.  
 Stephen Moore, Earl of **Mount Cashell**.  
 John Cust, Earl **Brownlow**.  
 Edward Boscawen, Earl of **Falmouth**.  
 Nicholas Vansittart, Lord **Bexley**.  
 John Scott, Earl of **Eldon**.  
 George William Finch Hatton, Earl of **Winchilsea and Nottingham**.  
 William O'Brien, Marquis of **Thomond**.  
 John Reginald Beauchamp Pyndar, Earl **Beauchamp**.  
 Charles Henry St. John O'Neill, Earl **O'Neill**.  
 John Colville, Lord **Colville of Culross**.

## DCXXXIX, DCXL.

APRIL 4, 1829.

The debate on the second reading of the Roman Catholic Relief Bill was taken on the 2nd, 3rd, and 4th of April (Hansard, New Series, vol. xxi, pp. 41-394) on the motion of the Duke of Wellington. It was carried by 217 to 112. For the motives of the change see Peel's Memoirs, vol. i.

The following protests were entered.

Because, should this Bill pass into a law, the constitution of this realm (as at present established in Church and State) must be materially affected by it; and it seems to me the admission of Roman Catholics to seats in Parliament, the Privy Council, and almost all the great offices of the State, is a measure directly adverse to the first principles and true spirit of our constitution, being Protestant, which I apprehend will thereby be progressively, and in the course of events, altogether subverted and destroyed; and, to prevent such evil and disastrous consequences, no real and adequate securities (if any can be) are provided and embodied in this Bill, nor is any compensation proposed for the concessions to be made.

What relates to the navy and army I look upon to be essentially different, as they (the navy and army) in fact exist only, by law, from year to year, the supplies for their support being in due manner granted accordingly.

And because I am of opinion those who are required to legislate upon this question cannot foresee nor duly appreciate the result of it to ourselves, and to posterity, whose welfare we are bound in our proceedings most scrupulously to consider, and whose just rights and interests we ought to maintain and protect unimpaired equally with our own.

George de Grey, Lord **Walsingham**.

George Kenyon, Lord **Kenyon**.

John Rolle, Lord **Rolle**.

Ernest, Duke of **Cumberland**.

1st, Because the passing of this Bill will effect the overthrow of the British Protestant constitution, tend to re-establish popery, and infringe the compact solemnly entered into between the King and his people.

2ndly, Because 'the laws of England are the birthright of the people thereof, and all the Kings and Queens who shall ascend the Throne of this Realm ought to administer the government of the same according to the same laws, and all their officers and ministers ought to serve them respectively according to the same;' and this Bill violates the laws of England as re-established in 1688, inasmuch as that the constitution will be no longer purely Protestant, but mixed and dangerous, as it was becoming in the time of Charles II.

3rdly, Because, by reason of the liberty which this Bill will give to papists to sit and vote in Parliament, the same increase and danger of popery may be expected to recur which was specially provided against in 1677, from a present and practical knowledge of the evil.

4thly, Because it is unwise to set experience at defiance, and it is unjustifiable to subvert the fundamental laws of the realm upon the temporary plea of expediency; and it is dangerous to our religion, laws and liberties, that enactments, hitherto considered to be fixed and permanent, and 'intended to stand, remain, and be the law of the realm for ever,' should be broken in upon, and their spirit and character totally changed and destroyed.

5thly, Because a proneness to depart from old institutions, and to speculate in new systems of government, gives just cause of apprehension for the present as well as for the future.



We therefore solemnly protest against this total infraction of the principles and practice of our Protestant constitution.

Henry Pelham Clinton, Duke of Newcastle.

For the third and for the fourth reasons.

George Kenyon, Lord Kenyon.

Seven other peers, Lords Mansfield, Howe, Romney, Malmesbury, Brownlow, O'Neill, and Bradford, protested without reasons.

## DCXLI.

APRIL 6, 1829.

Concurrently with the Catholic Relief Bill, Peel introduced a qualification of County Voters Bill (Ireland),—see Hansard, New Series, vol. xx, p. 952. The second reading of this Bill was carried by 223 to 17. The second reading in the Lords was moved on the 6th of April by the Duke of Wellington. The Bill was intended to obviate the creation of voters by underleases. The second reading was carried after debate (Hansard, vol. xxi, p. 407,) by 139 to 17.

The following protest was entered.

1st, Because it is contrary to the usual and highly constitutional custom of this House to deprive any fellow subject of any vested right or privilege which he possesses, without evidence on oath having been produced at the Bar of this House, proving that he had used such vested right or privilege unconstitutionally, or that it was for the general welfare and interest of the country that he should be called up to surrender it.

2ndly, Because it will establish (by taking away the elective franchise from the forty-shilling freeholders of Ireland, without any such evidence having been produced) a precedent which in future ages may prove the source of the greatest injuries to the dearest rights and liberties of this country.

George William Finch Hatton, Earl of Winchilsea and Nottingham.

## DCXLII—DCXLVIII.

APRIL 10, 1829.

The Roman Catholic Relief Bill was read a third time this day and passed. The third reading was moved by the Duke of Wellington on

the 7th, 8th, and 10th of April (Hansard, vol. xxi). It was carried by 213 to 109.

The following protests were entered.

1st, Because the principle of exclusion of Roman Catholics from Parliament was recognised and sanctioned at the period of the Revolution, when that principle was extended to the Crown, thereby completing that essentially and exclusively Protestant Constitution by which the Protestant establishments of these kingdoms have been from that time secured.

2ndly, Because no security, except that of a legislature exclusively Protestant, as settled at the Revolution, can be adequate to the permanent protection of the Protestant establishments of these kingdoms.

3rdly, Because, therefore, the Protestant character of the two Houses of Parliament is as essential to the Constitution as the Protestant character of the royal branch of the Legislature.

4thly, Because it does appear that the present Bill cannot be passed into a law consistently with a strict observance of the coronation oath, which oath, like every other, ought to be construed according to the plain obvious meaning of the words in the sense in which it was framed, and in which it was taken.

5thly, Because it is impossible to reconcile with that oath the admission to political and legislative power of Roman Catholics, who, in proportion to their conscientious attachment to their Church, are bound, by the duty which they owe to that Church, to use their endeavours to remove what that Church condemns as a dangerous heresy, and to restore to that Church those rights, that authority, and that establishment, of which they consider the Roman Catholic Church to have been wrongfully dispossessed.

6thly, Because the Roman Catholic Church, claiming infallibility, has never herself disclaimed any of those doctrines or pretensions which give just ground of objection and alarm to Protestants; and, denying the right of any individual to judge for himself in matters of faith, doctrine, or Church government, has deprived any disclaimer by individuals of that authority to which, from individual character, it might otherwise have been entitled.

7thly, Because laws which are of vital and permanent importance to the religious and political constitution of the country ought

not to be sacrificed to a measure of alleged expediency, the good effects of which, if any, can only be of short duration.

8thly, Because, considering the time at which and the means by which these concessions have been obtained, considering also the character of the Roman Catholic Church, and the dominion which that Church exercises over the minds and consciences of those who are in communion with her, it is impossible that the demand of concessions should stop at this point, when great political and legislative power is given to the lay members of the Roman Catholic Church, while from that Church and her hierarchy every object of spiritual and temporal ambition is professedly withheld.

9thly, Because, therefore, continued demands, either for the increase of the power and influence of the Roman Catholic Church, or for the diminution of the power, influence, and property of the Protestant Established Churches, will necessarily follow, while the means of resisting such demands will be materially reduced.

10thly, Because, independent of ulterior consequences, the present measure, if passed into a law, will subvert the Protestant Constitution by which the Protestant establishments of these kingdoms have been effectually secured, and to which the mass of the population of these kingdoms, comprising a very large proportion of the religious and constitutional intelligence of the country, have unequivocally expressed their attachment.

Charles Marsham, Earl of Romney.

George Kenyon, Lord Kenyon.

George William Finch Hatton, Earl of Winchilsea and Nottingham.

George Augustus Frederic Charles Holroyd, Lord Sheffield (Earl of Sheffield).

1st, Because the present measure is one which will endanger the constitution of these realms in Church and State, and may eventually lead to the subversion of civil and religious liberty.

2ndly, Because Roman Catholics cannot, according to the doctrine of the Roman Church, be bound by any oaths which either directly or indirectly interfere with the allegiance they owe to the Pope and his Councils: the Roman Catholic doctors and divines assert it to be their opinion that oaths may be broken; Popes in former times have granted absolution for this purpose, and, therefore, may do so again.

3rdly, Because history proves that the professors of the Roman faith have always employed temporal power to establish the spiritual supremacy of their Church : when Roman Catholics obtain influential situations, whether at home or in our distant colonies, they may, under the direction of their priests and confessors, exert their authority to injure the Protestant religion ; they will oppose the circulation of the Holy Bible, the establishment of the Protestant institutions, and the exertions of Protestant ministers and missionaries.

4thly, Because it is impossible to expect that Roman Catholics, if consistently attached to the religion they profess, can give that support to Protestant principles and doctrine which it behoves Great Britain to uphold, and his Majesty, as 'Protector of the Faith,' to require : if a member of the Church of Rome should refrain from openly attacking those things which are essentially Protestant, he may still feel inclined to wink at the attempts of others placed in subordinate offices.

5thly, Because the pure doctrine of the Protestant Church, being that taught by the holy Apostles, and believed by the first Christians, ought to be upheld ; whilst that professed by Roman Catholics, being corrupted by false traditions, supported by ignorance, and only congenial to the evil inclinations of man, ought to be decidedly discouraged : it is notorious all the principal false doctrines of Popery were unknown as articles of faith, even in the Church of Rome, before the seventh century ; and in the nineteenth, in this enlightened land, it must prove offensive to the Almighty thus to encourage the spread of religious error. If we forsake God, He will forsake us.

6thly, Because the National Church must necessarily be endangered by the granting of power to those who are bound to believe it to be either heretical or schismatic, who question the validity of its holy ordinances, and who consider its temporalities to be usurpations : not only will the power conceded by this Act be employed to undermine the Church of England in spiritual matters, but also in wresting from it the tithes and other Church property.

7thly, Because civil liberty has never long flourished under a Popish Government : in proportion as Popery acquires power the rights of the people will be invaded : it will seek to controul the liberty of thought, word, and action ; and, when Popish influence

becomes sufficiently powerful in Parliament, the liberty of the press will be one of the first rights attacked.

8thly, Because the more power is given to Papists the greater encouragement will they receive to establish themselves within these dominions: only fifty years ago there were not seventy thousand Roman Catholics in Great Britain; whereas at the present time the number is computed at upwards of five hundred thousand: this increase has been the consequence of temporal encouragements held out by Parliament: it is therefore natural to expect that after the present measure Popery will further increase; and, as soon as the power of Rome is able to cope with those professing the Protestant Faith, those scenes of religious animosity and persecution witnessed by our ancestors, and recorded in the annals of Great Britain, must again desolate the nation.

9thly, Because this Act can cure none of the evils under which Ireland labours; neither will it tranquillize that kingdom: the lower orders, who have been led to expect much benefit, must soon find out their error; they must still suffer many hardships, and find abundant causes for turbulence and discontent.

10thly, Finally, because, not only is power given either directly or indirectly to the Popish priesthood to oppose, and, if possible, to subvert, the Protestant Church established by law, but every attempt to protect this true religion, by the insertion of clauses in the Committee, has been resolutely resisted by his Majesty's Ministers, and finally negatived.

Stephen Moore, Earl of Mount Cashell.

1st, Because the religious establishments in the United Kingdom are and have long been Protestant in Church and State, and have been so constituted and preserved by laws made to restrain efforts to destroy those establishments by persons professing the Roman Catholic religion, who have constantly been and must always be, in conformity to their religious opinions, adverse to and desirous of destroying every Protestant establishment, and the freedom of religious opinion of every Protestant religious sect; and therefore the Protestant establishments of the United Kingdom, and the freedom of religious opinion of all Protestants, can only be protected from attempts of Roman Catholics for their destruction by laws giving superior political power to Protestants, or by the

physical power of the Protestant population of the United Kingdom so far exceeding the physical power of the Roman Catholic population as to render any attempt of the Roman Catholic population to obtain superior political power unavailing.

2ndly, Because it is proposed by this Bill to give to Roman Catholics the capacity to obtain political power, which may become superior to the political power possessed at the same time by Protestants, and thereby Roman Catholics may be enabled to destroy the Protestant establishments, unless the physical power of the Protestants shall be sufficient to controul by force the political power which may be so acquired by Roman Catholics.

3rdly, Because, although the physical power of the Protestant population of Great Britain and Ireland, before and at the time of the Revolution of 1688, greatly exceeded the physical power of the Roman Catholics, yet the Roman Catholics, having obtained considerable political power contrary to the established laws, the Protestant establishments were brought into imminent danger, from which danger they were rescued by the superior physical power which accomplished that Revolution; and they have since been preserved by further laws then provided for that purpose, in aid of the laws before provided for the same purpose.

4thly, Because this Bill, if it could pass into a law, will repeal or lessen the force and effect of those laws; and the security of the Protestant establishments must thenceforth principally depend on the superior physical power of Protestants, arising from their superior numbers, and on the probability that their superior numbers may afford them the means also of obtaining superior political power.

5thly, Because the effect of the Bill, if passed into a law, must therefore be to produce continual struggles for political power between Protestants and Roman Catholics throughout the United Kingdom; and, as the Roman Catholic population in Ireland greatly exceeds in number the Protestant population in that island, the Roman Catholics will have in Ireland superior physical power, and may probably thereby obtain superior political power also, in aid of their superior physical power; and may, by the union of physical and political power, expel or subjugate the Protestant population of that country, and separate Ireland from Great Britain.

6thly, Because, if this Bill should pass into a law, the maintenance of the Protestant establishments in Great Britain and Ireland, and the union of Ireland with Great Britain, must depend, not on the laws which have since the Revolution of 1688 produced the security of those establishments, or on the contract which created the union of the two islands, but on the superior physical force of the Protestants of the United Kingdom, acting as one body, to counteract the superiority of the physical force of the Roman Catholics of Ireland over the physical force of the Protestants of that country; and therefore the measure, instead of tending to produce peace in Ireland, may probably lead to a disastrous civil war, produced by contention for political power and attempts to render the Roman Catholic religion the established religion in Ireland.

John Freeman Mitford, Lord **Bedesdale**.  
George Kenyon, Lord **Kenyon**.

For the fourth, fifth, and sixth reasons.

Edward Boscawen, Earl of **Falmouth**.

Because I think this Bill is a great departure from the principles of the Revolution of 1688, by which, in my opinion, it was established that the Government of Great Britain and Ireland should be conducted wholly by Protestants; and because I think the measure is calculated to give encouragement to violence and disaffection, and is more likely to lead to the overthrow of the Protestant Church in Ireland, which I consider essential to the maintenance of civil and religious liberty, and to cause the dignities and revenues of that Church to be transferred to a Popish priesthood, than to produce permanent tranquillity in Ireland.

Charles Abbott, Lord **Tenterden**.  
George Kenyon, Lord **Kenyon**.  
Francis Almeric Spencer, Lord **Churchill**.  
James Walter Grimston, Earl of **Verulam**.  
John Maxwell Barry, Lord **Farnham**.  
Charles Long, Lord **Farnborough**.  
Robert Jocelyn, Lord **Clanbrassil** (Earl of Roden).  
Edward Boscawen, Earl of **Falmouth**.  
Charles Bruce, Marquis of **Ailesbury**.  
Montagu Bertie, Earl of **Abingdon**.  
Edward Bootle Wilbraham, Lord **Skelmersdale**.  
Henry Pelham Clinton, Duke of **Newcastle**.

Nicholas Vansittart, Lord **Bexley**.  
John Cust, Earl **Brownlow**.

1st, Because this Bill, in its principle and enactments, in our judgment, tends materially at present to weaken, and threatens, finally, essentially to injure that establishment in Church and State which was formed in 1688, in order 'that our religion, laws, and liberties might not again be in danger of being subverted.'

2ndly, Because we do not think it consistent with the safety and welfare of this Protestant kingdom, in which no person reconciled to or holding communion with the See or Church of Rome, or professing the Popish religion, is by law capable of exercising any regal authority, that a Protestant King should, either in Parliament or with respect to the duties attached to the great executive offices in the State conferring great political power, be advised by persons so reconciled or holding such communion or professing such religion.

3rdly, Because it appears to us, that when the Establishment of 1688 was formed, and Lords Spiritual and Temporal, and Commons, are in our Statutes stated to have taken into their most serious consideration the best means for attaining the end of forming an establishment, in order that our religion, laws, and liberties might not again be in danger of being subverted, and they deemed it fit that every King who should thereafter come to and succeed in the Imperial Crown of this realm should at his coronation or his coming to Parliament, which should first happen, make, subscribe, and audibly repeat the declaration mentioned in the Statute made in the 30th year of Charles the Second, intituled, 'An Act for the more effectually preserving the King's person and government, by disabling persons professing the Popish religion to sit in Parliament,' and also thought fit to continue in full force and effect the provisions of the same Statute with respect to Peers and members of the House of Commons claiming to sit and vote in the Houses of Parliament, it must have been unquestionably their opinion that the Protestantism of the King alone was not a sufficient security for the Protestant Reformed Established Religion, and that it must then have been the intention of the Legislature that the King, Lords, and Commons should all be Protestants:—Protestant members of the Legislature of a Kingdom, declared, in the language of its laws, to be a Protestant Kingdom.



4thly, Because, although the present Bill enacts, among other matters, that the declaration required by the above-mentioned Statute to be made and subscribed shall no longer be required to be made or subscribed by any of his Majesty's subjects, and this enactment appears to have been made with intent to the enabling persons professing the Roman Catholic religion to sit in Parliament, the Act of the first year of William and Mary appears still to be left in full force and effect, which requires the King succeeding to the Imperial Crown of this Kingdom to make and subscribe the declaration contained in the Act of the 30th Charles the Second, by its title stated to be an Act for more effectually preserving the King's person and government, by disabling Papists from sitting in Parliament.

5thly, Because the Statutes which have been referred to in the course of the debates upon this Bill, either repealing penal acts heretofore in force against the Roman Catholics, or Statutes altering the periods at which persons admitted to offices and places of trust were to take the oaths required to be taken by such persons, or the Annual Indemnity Acts, do not, in our opinion, justify the admission of Roman Catholics into Parliament, or into offices of State conferring very great political power, into which, by this Act, they are to be admitted.

6thly, Because it appears to us, that it cannot be reasonably hoped that persons summoned by the King's writ to Parliament, to advise the Crown in urgent and weighty matters concerning the Church and State of this Protestant Kingdom, if they are conscientiously attached to the Church of Rome, can give due support to our Established Reformed Protestant Church, its concerns and interests, as we apprehend it may be made to appear, upon a due consideration of the decrees and canons of their Church, and of the oaths required to be taken by their bishops and priests, and from the writings of their members, that there is reason to apprehend that the United Protestant Church of England and Ireland, and the Protestant Church of Scotland, will not be by them admitted to be branches of the Catholic Christian Church.

7thly, Because we are now called to consent to admit into Parliament and into offices of great political power (with the exception only of offices few and much too few in number) those who are by the Bill exempted from acknowledging the King's Supremacy in

matters ecclesiastical or spiritual, and required to acknowledge it only in matters temporal or civil, although it seems to us that it cannot be reasonably denied, that, according to the doctrines of the Church of Rome, jurisdiction and authority in matters of a temporal and civil nature have been usurped and exercised in the United Kingdom, connected with foreign influence, under the pretence that such matters are only of a spiritual nature, or that they are spiritual only because the authority is exercised *in Ordine ad Spiritualia*.

8thly, Because, although persons hereafter becoming members in either House of Parliament are not to be required to make the Declaration contained in the before-mentioned Statute of Charles II, we, and all the present members of this House, have solemnly professed, in the presence of God, our disbelief as to transubstantiation, and our belief that the Invocation or Adoration of the Virgin Mary, or any other saint, and the Sacrifice of the Mass, as they are now used in the Church of Rome, are superstitious and idolatrous, and the Kings of this realm are still required, as above-mentioned, solemnly so to declare upon the occasion afore-mentioned.

9thly, Because, although we have been repeatedly told that the present measures of Parliament are measures which are finally to settle a long-agitated question, we are convinced, regard being had to the feelings of the King's Roman Catholic and Protestant subjects, that they cannot be expected to have such effect; and experience seems to have demonstrated that concession does not and will not stifle demand; and the declarations of persons, both lay and ecclesiastical, appear to sanction the opinion that concessions will be asked as long as anything remains that can be conceded; and the rather, because, at the time when this Bill has been brought forward, the measure may probably be thought to be the effect of intimidation.

10thly, Because, though the Protestant Church of England and Ireland, and the Protestant Church of Scotland, are by former laws declared to be churches essentially and inviolably to be maintained and preserved, such Declaration alone cannot be effectual inviolably to maintain them; and if this Bill tends to injure those Churches, and repeal enactments of law necessary for their support, as we think it does, both in its principle and enactments, the Declara-

tion that they are to be inviolably maintained can give them no effectual support.

11thly, Because we cannot admit that any such necessity for this Bill has either been proved or stated as can justify our assent to it, considering the serious mischiefs, both to the Church and State, which we are afraid that the passing of this Bill will occasion.

12thly, Because we are now about to tender to his Majesty this Bill for his royal assent, and his Majesty must naturally be induced to suppose that we have dutifully and fully attended to his gracious recommendation, communicated to us on the first day of the Session, in which he was pleased to recommend to us to take into our deliberate consideration the whole condition of Ireland, and to review the laws which impose disabilities on his Roman Catholic subjects, and to consider whether the removal of those disabilities could be effected consistently with the great object referred to in his Majesty's recommendation, the full and permanent security in Church and State; and, according to his Majesty's recommendation, we cannot admit that this House has taken into its deliberate consideration the whole condition of Ireland, which consideration, we conceive his Majesty deemed to be necessary in order to enable us to judge satisfactorily whether any and what disabilities could be safely removed.

John Scott, Earl of **Eldon**.

George William Finch Hatton, Earl of **Winchilsea and Nottingham**.

Ernest, Duke of **Cumberland**.

Charles Bruce, Marquis of **Ailesbury**.

Thomas Burgess, Bishop of **Salisbury**.

Montagu Bertie, Earl of **Abingdon**.

Charles George Percival, Lord **Arden**.

Edward Bootle Wilbraham, Lord **Skelmersdale**.

Nicholas Vansittart, Lord **Bexley**.

Henry Pelham Clinton, Duke of **Newcastle**.

Charles Marsham, Earl of **Romney**.

Charles Duncombe, Lord **Feversham**.

Thomas Pakenham, Earl of **Longford**.

George Augustus Frederic Henry Bridgman, Earl of **Bradford**.

John Willoughby Cole, Earl of **Enniskillen**.

John Rolle, Lord **Rolle**.

John Bourke, Earl of **Mayo**.

George Kenyon, Lord **Kenyon**.

Thomas Robert Drummond Hay, Lord **Hay** (Earl of Kinnoul).

William Murray, Earl of **Mansfield**.  
 Robert Edward King, Viscount **Lorton**.  
 Charles Henry St. John O'Neill, Earl **O'Neill**.  
 John Cust, Earl **Brownlow**.  
 James Walter Grimston, Earl of **Verulam**.  
 John Maxwell Barry, Lord **Farnham**.  
 William O'Brien, Marquis of **Thomond**.  
 Henry Addington, Viscount **Sidmouth**.  
 George Gordon (Earl of **Norwich**), Duke of **Gordon**.  
 Charles Long, Lord **Farnborough**.  
 Edward Digby, Earl **Digby**.  
 Robert Jocelyn, Lord **Clanbrassil** (Earl of **Roden**).  
 Cropley Ashley Cooper, Earl of **Shaftesbury**.  
 Edward Boscawen, Earl of **Falmouth**.

1st, Because, though a full and complete religious toleration be the inalienable right of every individual in the State, yet still political power cannot justly be demanded by any dissenting sect, whenever the concession of that power appears to be inconsistent with the security and welfare of the community at large.

2ndly, Because, since the period of the Reformation, the Roman Catholic Church ever has been and is determinately hostile to the cause of Protestantism, and to the principles of liberty, civil and religious; the members, therefore, of that Church, are inadmissible to be the legislators of a Protestant country.

3rdly, Because many of the tenets of the Roman Catholic Church are directly opposed to the doctrines of Christianity as promulgated in the Revealed Word of Almighty God.

4thly, Because, for these and other reasons, as a bishop of our pure and reformed Church, I feel myself called upon to enter this my protest against the Bill admitting Roman Catholics into the higher offices of the State, and into the two Houses of Parliament.

George Henry Law, Bishop of **Bath and Wells**.

For the first, second, and third reasons.

John Maxwell Barry, Lord **Farnham**.  
 Robert Jocelyn, Lord **Clanbrassil** (Earl of **Roden**).

1st, Because at a period when the conduct of the Irish Romanists had been, and for a long course of time, so outrageous and inconsistent with all legitimate government, no concession whatever should have been granted to them; still less should they, in the

face of their declarations of hostility to the United Church Establishment of Great Britain and Ireland, and of their expressed desire to separate Ireland from Great Britain, have been invested with political power.

2ndly, Because the present Bill, when enacted into a law, will afford a permanent recorded legislative precedent, holding out, for ever, encouragement to the promotion of sedition and rebellion, by the grant of the highest possible reward.

Richard le Poer Trench, Viscount **Clancarty** (Earl of Clancarty).

James Walter Grimston, Earl of **Verulam**.

John Maxwell Barry, Lord **Farnham**.

Henry Pelham Clinton, Duke of **Newcastle**.

## DCXLIX, DCL.

APRIL 10, 1829.

The Qualification of Freeholders (Ireland) Bill was read a third time and passed this day, 10 George III, cap. 8.

It elicited the following protests.

1st, Because to seize upon and to confiscate the indubitable rights, privileges, and franchises of unoffending citizens, unaccused, unheard, untried, by whole descriptions, by hundreds and thousands together, is in utter subversion of that immutable law of true justice which is at once the vital principle and the most beautiful feature in the British Constitution.

2ndly, Because it is in direct violation of the Great Charter of the liberties of England, which enacts, 'That no freeman shall be disseized or estoined of lands, chattels, franchises, or of any right, without lawful judgment of his Peers.'

3rdly, Because the same security is confirmed to the people in the Petition of Right, but now will be encroached upon.

4thly, Because it is in defiance of the Act for the further limitation of the Crown, and better securing the rights and liberties of the subject, which sets forth, 'That the laws of England are the birthright of the people thereof.'

5thly, Because we are of opinion that such sacred Statutes ought not to be invaded without due caution and deliberate consideration, at least, nor without the clearest demonstration of an insurmountable State necessity.

6thly, Because we deem the arbitrary enactment of an *ex post facto* law, for the summary as well as final destruction, without appeal or compensation, not only of the vested rights of life interests, but even of those hereditary privileges which belong to fee-simple estates, is as contrary to the spirit and practice of the British Constitution as it is harsh and severe in its retrospective operation upon those who may happen to be affected by it.

7thly, Because, arguing from analogy of that Act of the Irish Union which granted, by authority of Parliament, pecuniary compensation amounting to above £1,200,000 to those cities and boroughs which consented to resign their Elective Charters, and from that Act of 1746 which, in relation to Scotland, granted upwards of half a million of money in compensation for the deprivation of heritable jurisdictions, as well as from that Article of the Scotch Union which reserves, among others, superiorities, as rights of property, to the owners thereof, we feel bound to consider the elective franchise of Ireland in the double light of a privilege and a property of computable pecuniary value, and must therefore view any arbitrary deprivation of both, without compensation, in the sense of a spoliation.

8thly, Because we are of opinion that the ulterior consequences of this measure will be a successful endeavour, by many Irish landlords, to eject a vast number of the existing leaseholders from their 40s. freeholds, in the intention of consolidating the same into £10 freeholds, for the sinister purposes of political influence; whereof the consequences, in a country destitute of any refuge established by law for the preservation of the unfortunate pauper from misery and starvation, will be to reduce multitudes of these ejected freeholders to the shocking alternative of starvation at home or of seeking refuge in the poor laws of England and Scotland, to the great prejudice and detriment of the labourers, and to the increased burthens of both nations.

9thly, Because we deem it most unfit and indecorous, that a measure fraught with such important and serious consequences should be carried with unbridled haste, under cover of another measure absorbing the whole public attention.

10thly, Because we think it inconsonant with the usages and derogatory to the character and dignity of Parliament, to consent ever to abrogate the rights and liberties of the humble classes of

his Majesty's unoffending subjects, on the bare asseveration of the King's ministers of the existence of a case of expediency, or even of a State necessity, for so extraordinary a measure, without further inquiry.

11thly, Because, further, whilst we acknowledge indubitably a supreme authority in Parliament to legislate in the spirit of justice, we deny its title to an arbitrary power to legislate in the spirit of injustice, especially in the summary and unexplained destruction of that immediate constituency, through its responsibility to which, at all times, one estate of Parliament derives its only constitutional power, as it previously had derived its creation.

12thly, Because we cannot but bear in mind that the elective franchise in England is built upon similar and no more secure foundation than those we are about to tear away; and that this, therefore, at a future moment of public apathy, may be drawn into a dangerous precedent, in justification of a corresponding curtailment of the elective rights of the yeomanry of England.

13thly, Because we cannot but recollect that the preservation and security of all public and private property rest upon no other basis than the moral inviolability of those principles which we are now about to overthrow, upon a declaration by ministers, that Parliament must consent to this measure of injustice and restriction, as the necessary price and appendage of one of concession.

14thly, Because we deem this principle of barter, in questions of justice and legislation, as dangerous in its consequences as it is repulsive and unseemly in its immediate character.

15thly, Because, whilst we are most willing and anxious to correct every proved abuse, we cannot consent to commence the reformation of any part of the State by its subversion.

Charles Lennox, Duke of Richmond.

Charles Henry St. John O'Neill, Earl O'Neill.

Alexander Douglas Hamilton, Duke of Hamilton and Brandon.

1st, Because that although, in my opinion, the elective franchise in Ireland requires regulation, yet the provisions of this Bill are highly unconstitutional, inasmuch as they require that the qualifications to enable freeholders to vote at elections for counties in Ireland, shall be decided on by officers appointed by the Crown.

removable at the pleasure of the Crown, paid by the Crown, and possibly looking up to the Government for the time being for professional promotion, and therefore, under its direct influence.

2ndly, Because this Bill does not give any effective appeal against the decision of such officers, that which is provided by it being of so expensive a nature as not to be available by the major part of the freeholders of Ireland.

3rdly, Because it appears to me that, by the provisions of this Bill, a corrupt and arbitrary Government may obtain an undue power over the constituency of Ireland, and, by such influence, procure the return of members to the House of Commons subservient to their views, and thus endanger the liberties of the people.

4thly, Because, in my opinion, the fit and proper tribunal to enquire into the qualification of freeholders to vote at elections for counties would be the magistrates of such county, together with the assistant barrister (their powers being co-ordinate), with an effective appeal from their decision when required; thus the magistracy would be able to counteract any undue bias of the assistant barrister, if such should exist, and the assistant barrister would check any party feeling which might be suffered to influence the magistracy.

5thly, Because the Bill makes no provision for the regulation of the elective franchise in cities, counties of cities and towns, in which abuses exist, in proportion to the number of freeholders, to a greater extent than in counties at large.

John Maxwell Barry, Lord Farnham.

## DCLI.

FEBRUARY 4, 1830.

The King's Speech, read on this day, alluded to the fact that 'great distress prevailed among the agricultural and manufacturing classes in some parts of the United Kingdom,' but deprecated 'any relaxation of the determination of the House to keep inviolate the public credit.' On this Earl Stanhope, ascribing the distress to the fact that Mr. Peel had lowered the sliding scale, and commenting on the resistance which the late Lord Redesdale had shown to the measure, moved an amendment to the effect that the House would forthwith enquire into the causes of the distress. Lord King also moved an amendment, censuring Protection of all kinds. Lord Stanhope's motion was negatived by 71 to 9, and Lord



King's appears to have been negatived without a division. The following protest was entered.

1st, Because it is the bounden duty of Parliament to examine the causes of public distress, and, as far as may be in its power, to administer speedy and effectual relief.

2ndly, Because the grievous distress which now afflicts the country in many branches of productive industry appears to be the result of legislative measures, and might therefore be relieved, if not altogether removed, by a different course of policy, particularly with respect to the currency, as the alteration in its value has greatly increased the weight of all the public burthens and of all the private engagements, which existed previously to that alteration.

3rdly, Because the relief which ought to be administered cannot be delayed without injury and injustice, and also without danger to the country, of which the welfare must be destroyed, and of which the tranquillity might be disturbed, by a continuance of the distress which is now suffered.

Philip Henry Stanhope, Earl Stanhope.

For first and third reasons.

Charles Lennox, Duke of Richmond.

## DCLII.

FEBRUARY 25, 1830.

On this day Earl Stanhope moved for a 'committee to enquire into the state of the agriculture and manufacture of the Kingdom, for the purpose of ascertaining whether any and what relief can be obtained by an extension of foreign trade,' Hansard, New Series, vol. xxii, p. 928. The motion was negatived by 118 to 25. The following protest was entered.

1st, Because we are convinced that the distress which prevailed in this Kingdom at the time of the commencement of the present Session of Parliament, and which his Majesty must have been induced to believe, and have been advised to represent to Parliament, as partial, was at that period most severely felt in almost all parts of the Kingdom, and that it has since increased, and continues to increase.

2ndly, Because it has been stated to Parliament that the distress, so represented to be only partial, was to be attributed to the

seasons, and to other causes not under legislative control; and the representation so made, whilst it states a self-evident truth respecting the seasons, omits all mention what such, the other causes of distress, are, and Parliament therefore has not the means of ascertaining, without further enquiry, whether such other causes are or are not under legislative control.

3rdly, Because we think that it is the duty of this House not to rest satisfied with respect to a matter of such importance, without instituting a solemn enquiry, in order to ascertain what are the causes which have produced extreme distress throughout the Kingdom, or the greatest part thereof; and whether that distress can by any and what legislative measures be removed or alleviated; and because it is, we conceive, the duty of Parliament, without any delay, to the utmost of its power, by all just means, to endeavour to remove or alleviate it.

4thly, Because we think, that if it should be found, upon satisfactory enquiry, that the causes of the distress cannot be removed, or the distress be alleviated by the Legislature, his Majesty's subjects will not fail duly to appreciate the earnest endeavours of Parliament to relieve them, and that they will cease to labour under an aggravation of the distress occasioned by their present belief, that, if the distress cannot be wholly removed, it may be materially alleviated, an aggravation of distress from which it may be in the power of Parliament to relieve them, by ascertaining what are (other than the seasons) the causes of the distress, and whether such other causes are or are not under legislative control.

John Scott, Earl of Eldon.

Philip Henry Stanhope, Earl Stanhope.

John Rushout, Lord Northwick.

Francis Almeric Spencer, Lord Churchill.

Henry Francis Roper Curzon, Lord Teynham.

Charles Lennox, Duke of Richmond and Lennox.

William Pleydell Bouverie, Earl of Radnor.

### DCLIII.

MARCH 23, 1830.

In 1826 Pedro IV, King of Portugal, abdicated the crown of Portugal (electing that of Brazil) in favour of his daughter Maria. His brother,

however, Dom Miguel, obtained possession of the crown in 1828, and retained it till 1833, when Maria regained it. The following protest refers to certain proceedings of Captain Walpole, who prevented a number of Portuguese from sailing to Terceira from Plymouth; the debate having been originated by Lord Clanricarde. See Hansard, vol. xxiii, p. 737. The motion was rejected by 126 to 31.

Because the forcible detention or interruption of the subjects of a belligerent state upon the high seas or within the legitimate jurisdiction of either of the belligerents, by a neutral, constitutes a direct breach of neutrality, and is an obvious violation of the law of nations. And such an act of aggression, illegal and unjust at all times against a people with whom the interfering power is not actually at war, assumed in this instance a yet more odious and ungenerous aspect, inasmuch as it was exercised against the unarmed subjects of a defenceless and friendly sovereign, whose elevation and right to the Crown of Portugal had been earnestly recommended and openly recognized by his Majesty, and whose actual residence in Great Britain, bespeaking confidence in the friendship and protection of the King, entitled both her and her subjects to especial favour and countenance, even if considerations of policy precluded his Majesty's government from enforcing her just pretensions by arms.

Henry Richard Fox Vassall, Lord **Holland**.  
 Ulick John De Burgh, Lord **Somerhill** (Marquis of Clanricarde).  
 George Howard, Earl of **Carlisle**.  
 Granville Leveson Gower, Viscount **Granville**.  
 William Frederic, Duke of **Gloucester**.  
 William Pleydell Bouverie, Earl of **Radnor**.  
 Peter Leopold Louis Francis Cowper, Earl **Cowper**.  
 William Lamb, Viscount **Melbourne**.  
 Charles Rose Ellis, Lord **Seaford**.  
 Peter King, Lord **King**.  
 George Calthorpe, Lord **Calthorpe**.  
 Henry George Herbert, Earl of **Carnarvon**.

#### DCLIV.

APRIL 2, 1830.

The borough of East Retford had long been scandalous for corruption, and the House of Commons at last took cognizance of the fact, collected evidence, and passed a Bill to extend the franchise from the borough to the hundred of Bassetlaw. In order to obtain sufficient evidence,

it became expedient to indemnify persons who gave evidence bearing on the facts. This was done by 11 George IV, cap. 12, and it was against the third reading of this Bill that the following protest is directed. The Act to prevent Bribery and Corruption in East Retford is 11 George IV, and 1 William IV. cap. 74.

1st, Because the provisions of the Bill presuppose an insufficiency of evidence, and the consequent necessity of resorting to extraordinary means to procure it, in the matter of a Bill lately brought up from the Commons, and intituled 'An Act to prevent bribery and corruption in the election of burgesses to serve in Parliament for the borough of East Retford'; whereas the decision of the other House of Parliament, founded, first, upon the report of a tribunal appointed by Act of Parliament to try elections, and armed with all necessary powers for that purpose, and secondly, upon the result of their own enquiries, raises a reasonable presumption, at least, that grounds sufficient to enable us to come to a sound determination on the legislative measure before the House may be obtained without a special suspension of the ordinary rules of evidence, and an anomalous purchase of truth by an extension of impunity to offenders.

2ndly, Because the recourse to such a preliminary act of power, for the purpose of procuring evidence, implies, (and the preamble directly asserts,) before any petition has been presented to this House against the East Retford Bill, that an examination of witnesses at the Bar is absolutely necessary, and thereby sanctions a notion, in my opinion erroneous, mischievous and unconstitutional, namely, that the Bill that has lately passed the House of Commons, and all other measures of a like nature, are Bills of pains and penalties, partaking of a judicial character, and requiring all that special and cautious regard to legal forms which distinguishes this House in the discharge of its judicial functions, and which it wisely and mercifully extends to such legislative acts as pronounce sentence or inflict punishment, as well as to such as decide between parties applying for the interference of the Legislature, their respective properties and rights. But a Bill of regulation for the purpose of preventing bribery and corruption, and preserving the purity of representation in the Commons' House of Parliament, is not *ex vi termini* either a private Bill or a Bill of pains and penalties, and may consequently be adopted by Par-

liament consistently with reason and usage, on a moral conviction of its justice, necessity or expediency, without subjecting the facts or considerations which lead to its adoption to legal proof at the Bar of the House.

The privilege vested by charter in any corporation to send members to Parliament appears to me a trust and not a property. The individual elected in virtue of such privileges, though the immediate delegate of his constituents, is, according to the maxims of our Constitution, a member of the supreme Legislature of the Empire, invested with a share of the representation of the people at large, for whose benefit he is bound to exercise his functions. It follows, that the right of choosing such a representative, when conferred by any instrument or usage on any separate body of men, is a trust confided to that body of men for the benefit and advantage of the whole community. If, therefore, that trust be so administered as notoriously to defeat the objects for which it was created, and, by polluting the sources from whence one branch of the Legislature is supplied, to lower the character and impair the authority of the House of Commons, the Parliament is justified, by reason and analogy, in proceeding, on such moral conviction as guides it in every other measure of regulation or reform, to revoke, limit, enlarge or transfer that trust in the way and to the extent which it deems most conducive to the advantage of the community.

The most sacred and important trust which by law can be reposed in human authority, namely, the Crown itself, has been repeatedly in our history limited, regulated and transferred by the King, Lords and Commons in Parliament assembled, without any minute and juridical investigation of facts, and without that attention to technical rules and cautious forms which properly distinguish our judicial proceedings, but are utterly inapplicable and would be inconvenient in those which have for their object the moulding a Government to the exigencies and interests of the governed. On the same principles, the persons and places entitled to vote by themselves or their representatives in the Scottish Parliament, before the union with that Kingdom, had those privileges regulated, curtailed, modified or suppressed by a Legislative Act, without any legal proof of delinquency or any judicial investigation of the nature and extent of such privileges,

or of the manner in which they had been exercised. The legislative union with Ireland also deprived the majority of the Irish Peers of their votes in the House of Lords, and no inconsiderable number of boroughs of their right to send burgesses to Parliament; and although certain compensations were granted to the latter, neither the preamble of the legislative act so depriving them of privileges, or compensating them for the loss, nor the grounds which induced the Parliament to pass it, were subjected to legal proof. More recently, a large body of freeholders, entitled by common and by statute law to vote for knights of the shire in that Kingdom, have been deprived by an Act of Parliament of that privilege; and the said Act of Parliament, so far from being subjected to such judicial proceedings as usually attend private Bills or Bills of pains and penalties in this House, passed the Legislature without admitting the petitioners against it to be heard by themselves or their counsel, or to adduce evidence against the allegations of the preamble in either House of Parliament. Concurring, therefore, with the greatest constitutional authority that ever sat in this House, Lord Somers, that 'there are many things plain and evident, beyond the testimony of any witnesses, which yet can never be proved in a legal way,' I was unwilling, by inference, to sanction a principle which would fetter the functions of this House in the exercise of our legislative discretion and authority, and confine our power of regulating and reforming abuses in the representation to such cases only as are susceptible of strict legal proof.

3rdly, Because, if the House of Lords were to establish the practice of proceeding usual in private Bills or in Bills of pains and penalties, as indispensable in Bills of regulation and reform in matters of election, great delay would ensue, and various impediments be thrown in the way of such wholesome reforms as the lapse of time and the exigencies of the country are likely to require; and such impediment originating in scruples of this House, warranted by neither reason, analogy nor example, would be highly injurious to the character of this House, as well as to the progress of sound improvement and wholesome legislation in the country.

Henry Richard Fox Vassall, Lord Holland.

## DCLV.

JULY 12, 1830.

The Act 11 George IV, and 1 William IV, cap. 69, made considerable changes in the process of administering justice in the Session's Court of Scotland, especially by instituting trial by jury in civil cases. It appears that the legal bodies in Scotland petitioned against it. The opposition in the Lords came from Lord Eldon, Lord Wynford, and Lord Lauderdale. The second reading was carried without a division, and the following protest entered.

1st, Because it appears to us as unprecedented as it is indecorous, that a Bill of such high importance, which has for its object regulating and new-modelling the proceedings of the Court of Session, of the Court of Justiciary, of the Jury Court, of the Court of Exchequer, of the Consistorial and Maritime Courts, and even of the Sheriffs' Courts in Scotland, should be pressed on the consideration of this House at a period so near the conclusion of the Session as to render it impossible for the members of this House to bestow upon it that attention which it is their bounden duty to give to a measure on the details of which depends the due administration of justice in all its branches throughout Scotland.

2ndly, Because we feel it our duty to express our regret and astonishment that a government, who may justly pride itself upon the benefits it has bestowed on this country, by simplifying and consolidating many branches of our laws, should be induced to recommend to this House a Bill which purports to alter and amend all the Acts hitherto passed for establishing trial by jury in civil causes in Scotland, but which contains no one definite or direct alteration or amendment of those laws, and alone attempts to effect its avowed object by declaring 'that all the provisions of these Acts shall remain in force in so far as not inconsistent with this Act,' thus leaving the law of Scotland on these important subjects in the unprecedented and uncertain state of being only to be inferred from what, to the minds of those whose duty it is to expound it, may appear consistent or inconsistent with the vague enactments of a Bill, the only argument in favour of which, used by its advocates out of this House, is, that it may be amended in a future Parliament.

3rdly, Because the provisions of this Bill are throughout so loose and indefinite, and there is such a complete want of all enactments

about the mode of carrying it into execution, that it appears to us to be in truth an unlimited delegation to the Court of Session, to accomplish by act of sederunt that which the constitution of our country requires should be enacted by law.

4thly, Because, anxious as we are to see trial by jury introduced into the supreme civil courts of Scotland, we must think that the mode of conducting jury trials, as proposed by this Bill, has a tendency to defeat that great object, by the evidence its enactments afford, that, in the estimation of the Legislature, the judges to whom the charge of conducting it is to be entrusted are at present incapable of executing the duty.

For to us it appears that, though the task of preparing jury causes for trial is entrusted to the Lords Ordinary, the provision that they may have recourse for advice and assistance to the Lord President of the division to which they belong, or to the Lord Chief Commissioner, strongly insinuates doubts of their capacity to execute the duty.

We must also be of opinion, that prohibiting the presidents of either division, to whom the instruction of the Lords Ordinary is entrusted, from conducting a trial by jury for the next three years, unless in the presence of the Lord Chief Commissioner or one of the Judges of the Jury Court, can only be construed to be, on the part of the Legislature, a direct declaration of their incapacity to perform the duty imposed on them, except when aided by the instructions of one of those Judges, under whom it seems to us to be enacted that they should for three years serve an apprenticeship.

To us it therefore appears, that this proposed mode of uniting the benefits of jury trial with the ordinary jurisdiction of the Court of Session cannot fail to be attended with the fatal effect of lowering, in the minds of the people of Scotland, that character for talent, industry and ability which the Judges presiding over the Two Chambers have so justly and so deservedly acquired, and that it thus tends to impair their power of rendering service to their country, not only in the performance of their new duties, but also in the execution of those more important duties which they have hitherto discharged with such credit to themselves.

5thly, Because, far from agreeing in the propriety of transferring the jurisdiction of the Consistorial Court of Scotland to the Court



of Session, we feel it our duty to reprobate the measure of abolishing a Court which for centuries has exercised its jurisdiction with credit to itself, and advantage to the public, at a time when, in the opinion of every well-informed lawyer, the Judges of that Court, in the numerous cases of divorces applied for by foreigners who had no permanent domicile in Scotland, have delivered opinions that proved them to be not only sound lawyers, but men who are incapable of pronouncing hasty and crude judgments; whilst in the same cases the decisions of the Court of Session, as a Court of appeal, and the instructions they have given to the commissaries on the subject of collusion, as well as on that of finding that the plaintiff is entitled to receive redress according to the law of Scotland, if the jurisdiction of the Court has been established by a summons personally served on the defender, or by a summons left for him at a place where he has resided forty days, within that country, has perverted the law of Scotland, and introduced rules in practice which must give rise to the necessity of altering it.

With these opinions, we must protest against the measure of annihilating the Consistorial Court, to whose merits we are ready to subscribe, and of transferring the jurisdiction to the Court of Session, from whose conduct we are on this important subject compelled to withhold our approbation.

Indeed we cannot account for this measure being suggested but on the ground of giving credit to what is unfortunately too generally believed in Scotland, that this important Bill, which enacts alterations in the law of that country so unparalleled in extent, owes its origin to a scheme for increasing the salaries of the Judges of the Court of Session; and that the transfer to that Court of the jurisdiction of the Consistorial Court has been resorted to as furnishing a pretence, from the increase of business, to augment the Judges' salaries, whilst the ultimate saving it will occasion might be held out as in part a means of defraying the expence.

James Maitland, Lord Lauderdale (Earl of Lauderdale).

## DCLVI.

JULY 12, 1830.

The Act of 11 George IV, and 1 William IV, cap. 64, by which beershops were established, was an expedient of the Duke of Wellington. It was

opposed by the Duke of Richmond, on the plea that the licensed publicans had certain vested rights which it was unfair to imperil. The motive of the Beer Bill was to 'wean the public from the use of spirits.' The following protest embodies the amendments which the Duke of Richmond proposed, but failed to carry.

Because the following three clauses, having been proposed, were rejected by the House; viz.—

'Provided always, that nothing in this Act shall be construed to permit any person to sell any beer, ale, porter, or cyder, to be consumed on the premises where sold, or in any shop, house, outhouse, yard, garden, orchard or other place adjoining the same, or belonging to or occupied by the person taking out such licence, or in which he shall have any concern.

'Provided always, that nothing in this Act shall be construed to permit any person to sell any beer, ale, porter, or cyder, to be consumed on the premises where sold, or in any shop, house, outhouse, yard, garden, orchard or other place adjoining the same, or belonging to or occupied by the person taking out such licence, or in which he shall have any concern, previous to the 10th of October, 1831.

'And be it further enacted, that this Act shall be continued in force until the 1st of January, 1832.'

Charles Lennox, Duke of Richmond and Lennox.

## DCLVII.

JULY 13, 1830.

The Act 11 George IV, and 1 William IV, cap. 66, comprises under one Act all forgeries punishable with death, and abrogates the penalty in all cases which are not named, but punishes them with transportation. The cases where the penalty was retained are:—forging the Great Seal, &c., exchequer bills and debentures, East India bonds, bank note, bill of exchange, promissory note, warrant or order for payment of money, false entries in account books of public stock, and transfers of public stock or powers of attorney. Lord Holland moved the recommittal of the Bill for the purpose of abolishing the penalty altogether, and failing in this entered the following protest.

1st, Because the Bill, as amended in the Committee, annexes or continues the punishment of death in many cases of forgery, which crime, however injurious to society, is an offence of human institution. It can only be described as a spoliation of property

unattended with violence; and the common feelings of mankind, the maxims of religion and philosophy, the authority of the most eminent men, and the practice of the most civilized nations, as well as of our ancient law, are generally averse to punishing by death any crimes in the perpetration of which no violence is used or intended.

2ndly, Because no proof has been adduced, and there is no ground for suspecting, that the crime of forgery has grown to be 'enormous, frequent, and dangerous,' which are the circumstances required by Sir Matthew Hale to justify a lawgiver in annexing a punishment, and even death, 'beyond the demerit of the offence itself simply considered.'

3rdly, Because, although forgeries may have become less frequent of late years in consequence of the resumption of cash payments, or from other causes, such recent diminution of that species of guilt cannot be reasonably attributed to the terror of a punishment which has subsisted and been in force for nearly a century, which at present, in seven cases out of eight, is not inflicted, and which, when sternly and rigorously enforced, failed to produce any such diminution. We were therefore unwilling too hastily to infer the efficacy of severity from any recent or accidental diminution of the offence, and we were confirmed in withholding our assent to such precipitate reasoning, by reflecting, that forgeries have often been and still continue to be more frequent in this country than they were before the punishment of death was annexed to that crime.

4thly, Because sundry laws, inflicting capital punishments on a variety of crimes, have, during the last seventy years, been abrogated in civilized States, and in no one instance does it appear that the removal of the terror of death has been followed by any increased frequency of the crime. The laws have generally been invigorated by such wholesome relaxation, and experience has confirmed the great axioms which speculative philosophers and practised moralists had long since inculcated, namely, that capital punishments rarely hinder the commission of a crime, but often prevent its detection, and that the certainty of a sentence, comparatively mild, extirpates wickedness more effectually than the dread of a punishment which the common feelings of mankind deem disproportionate to the offence, and therefore scruple to concur with the community in inflicting.

5thly, Because, if justice enjoins the necessity of proportioning the punishment to the moral turpitude of an offence, prudence no less requires that the compassion likely to be produced by such punishment should not exceed the indignation generally excited by the perpetration of the crime, and that the penalty should be regulated by the state of public opinion at the time and in the country where such law is enacted or allowed to continue; but in this instance the frequency of pardons, the numerous petitions of the people, and the votes of the Commons' House of Parliament, sufficiently attest that the punishment by death of criminals convicted of forgery is abhorrent to the spirit of the age, contrary to the judgment of the English public, and revolting to the feelings of the community.

Henry Richard Fox Vassall, Lord **Holland**.  
Charles Lennox, Duke of **Richmond** (third and fifth reasons).  
John George Lambton, Lord **Durham**.

## DCLVIII.

JULY 20, 1830.

One of Lord Sidmouth's six Acts, that against Blasphemous and Seditious Libels, was so far amended this year that banishment was repealed, but the amount of the bond to be given by the publisher of a newspaper was increased. Lord Holland objected to this increase, and strove to do away with the recognizance altogether. This proposal was negatived without a division, and the following protest inserted.

1st, Because, in the words proposed to be omitted, the amount of recognizances, bonds, and sureties required from publishers of newspapers, pamphlets, and papers, by the 60th of George III, to secure the payment of fines upon convictions of any seditious or blasphemous libel in the said newspapers, pamphlets, or papers, is considerably raised, and no proof has been adduced, or even offered to the House, that such libels have become more frequent or dangerous, or that the smallness of the recognizance required has in any one instance contributed to the commission of the offence or the impunity of the offender. We could not, therefore, consent to encrease a restraint on the press which is odious in itself, and only recently known to our law, upon the bare allegation in the preamble, utterly unsupported by evidence or argument in debate, that it was expedient to do so.

2ndly, Because, by the words proposed to be omitted, the conditions of the new recognizances and bonds are extended to secure the payment of damages and costs to be recovered in actions for libels, as well as the payment of fines upon convictions on informations and indictments; and although we admit such libels as asperse private character, and are usually the subjects of action for the recovery of damages, to be far more injurious to society than those of a general and public nature (to the prevention of which last the provisions of the Statute of George III, cap. 9, were exclusively directed), yet we question the prudence, necessity, and justice of confounding, even in preventive measures, offences so distinct in their motives, malignity, and effect, as private calumny and political libel. We were therefore more disposed to look for protection against all inconveniences and abuses arising from the present state of the law of libel, to a thorough and well-considered revision of the principles of that law. And we indulged confident hopes that the wisdom of Parliament might ere long devise some comprehensive improvement in that branch of our criminal jurisprudence, which would afford increased facility of redress to individuals injured by slander and defamation; which would exempt the proprietors of the press, and the venders of printed works from all odious and unnecessary restraints, previous to publication or conviction; which would define political libel, and regulate the proceedings and punishments relating thereto; which would check or suppress the practice of informations, and more particularly of *ex-officio* informations, against them; and which, finally, would correct that anomaly in law, and solecism in language, by which it is still contended that in matter of libel there may be guilt without intention; that one man may be criminally responsible for the act of another; and that a bookseller or proprietor may be justly convicted and punished for maliciously printing and publishing works which it is proved to be physically impossible that he could have read, written, seen, heard, or known of before their publication.

3rdly, Because the above words were proposed to be omitted with a view of inserting an enactment, that all provisions in the 60th of George III, cap. 9, which require from persons publishing newspapers, pamphlets, or papers, any recognizances, bonds, or sureties whatever, should be repealed, and we were anxious to repeal such provisions, from a persuasion, founded on experience,

that they are inefficacious in preventing libels, and from an apprehension that they tend to establish a monopoly injurious to the interests of truth, and to affix a stigma of suspicion on those concerned in the daily press, which may discourage and deter persons well qualified by their station, their virtues, and their acquirements, to give a direction to public opinion, from ever engaging in such periodical publications.

Henry Richard Fox Vassall, Lord **Holland**.  
Peter King, Lord **King**.

### DCLIX.

AUGUST 29, 1831.

A local Bill, the object of which was the drainage of certain low-lying lands near King's Lynn, was read a third time and passed on this day. Lord Holland objected to the Bill, for reasons which are sufficiently expressed in his protest.

Because the Bill appeared to me to require revision and re-commitment, inasmuch as the lands lying within the districts to which it applies differ exceedingly in value, and do not derive equal benefit from the drainage, but they are nevertheless taxed per acre without any reference to the difference in their value, or to the disparity of the advantages they are likely to derive from the measure; and this principle, iniquitous in itself, appears to me yet more inadmissible from the circumstance, that Acts of a similar nature affecting the drainage of land, and especially those relating to the Bedford Level, have practically sanctioned an opposite and more equitable principle, and apportioned the tax either to the value of the lands or to the advantage which they respectively derived from the drainage.

Henry Richard Fox Vassall, Lord **Holland**.

### DCLX.

SEPTEMBER 6, 1831.

By 14 George III, cap. 88, certain duties were levied in Canada, the proceeds of which were devoted towards the maintenance of civil government and the administration of justice. By 1 and 2 William IV, cap. 23, the disposition of these funds was left at the discretion of the Legislative Councils in Upper and Lower Canada. The Bill was opposed by the

Duke of Wellington, who entered the following protest on its being read a third time.

Because the Bill transfers to the Legislative Councils and Assemblies of the provinces of Upper and Lower Canada, by any Act to be by those Legislatures respectively passed, and assented to by his Majesty, the exclusive appropriation of the duties levied under authority of the Act of the 14th George III, cap. 88, hitherto applied, by warrant of the Lords of the Treasury, towards defraying the expence of the administration of justice and the support of the civil government in those provinces respectively, by authority of the same Act.

The House of Assembly of the province of Lower Canada has up to this time omitted to make any permanent provision to defray the expence of those charges in that province; and the judges and others employed in the administration of justice, and the governor and the officers of the civil government, are left to be provided for by annual vote of the Legislative Assembly of the province.

These persons will thus become dependant upon the continued favour of the Legislative Assembly for the reward of their labours and service; the administration of justice within the province of Lower Canada can no longer be deemed independant; and his Majesty's subjects will have justice administered to them by judges, and will be governed by officers, situated as above described.

Arthur Wellesley, Duke of Wellington.

## DCLXI.

SEPTEMBER 27, 1831.

By 1 and 2 William IV, cap. 56, a Court of Bankruptcy was established. The debate on the Bill going into Committee may be found in Hansard, Third Series, vol. vii, p. 495, when the Bill was opposed by Lord Wynford.

The following protest was entered on the third reading.

Because I wish to record my humble opinion, that this Bill, instead of removing uncertainty and delay, and expence in the administration of the laws relative to bankruptcy, will encrease that uncertainty, delay, and expence unnecessarily.

John Scott, Earl of Eldon.

## DCLXII.

SEPTEMBER 30, 1831.

By 1 and 2 William IV, cap. 30, the duties on wine were equalised. A duty of 2*s.* 9*d.* were levied on all wine imported from the Cape and its dependencies, of 5*s.* 6*d.* on all other wine. The Bill was moved by Lord Auckland, and was opposed by Lord Aberdeen and the Duke of Wellington. It was, however, carried without a division, and the following protest was inserted.

1st, Because it was proved in the debate that the Methuen Treaty had been renewed by and was incorporated into the Treaty of Commerce and Navigation signed at Rio de Janeiro on the 19th of February, 1810, and that its execution was to be regulated by the stipulations of that treaty.

2ndly, Because, without questioning the right of the Legislature to equalize the duties on wine, had the stipulation been previously complied with which is contained in the thirty-third article of the aforesaid treaty, and which requires that due notice should be given by the contracting parties of the intention of either to suspend the operation of any article of the treaty, we are nevertheless of opinion, that the long and intimate connection between the Crowns of England and Portugal, the great sacrifices made and services mutually rendered, might reasonably have prevented so important a change from being carried into effect, except as the result of an amicable negotiation.

3rdly, Because the manner in which this measure has been proposed by his Majesty's Ministers, and the time at which it is brought forward, without due notice given to the Government of Portugal, and at a moment of great political excitement in that country, must be considered as a violation of the national honour, and as a proceeding hostile to the interests of a Power which is united to us by so many bonds of alliance and friendship.

4thly, Because, although we doubt the extent of the financial advantages which have been anticipated from the proposed measure, we are of opinion that a still greater amount of revenue to be derived from it would be dearly purchased at the expence of good faith, and by the neglect of our oldest and most faithful ally.

George Gordon, Viscount Gordon (Earl of Aberdeen).

Ernest, Duke of Cumberland.

George Kenyon, Lord Kenyon.



John Thomas Freeman Mitford, Lord **Redesdale**.  
 Dunbar James Douglas, Earl of **Selkirk**.  
 Henry Bathurst, Earl **Bathurst**.  
 Arthur Wellesley, Duke of **Wellington**.  
 Edward Law, Lord **Ellenborough**.  
 Richard Nugent Temple Brydges Chandos Grenville, Duke of  
**Buckingham and Chandos**.  
 William Carr Beresford, Viscount **Beresford**.  
 Horatio Walpole, Earl of **Orford**.  
 James Brownlow William Gascoyne Cecil, Marquis of **Salisbury**.  
 Stapleton Cotton, Viscount **Combermere**.  
 William Forward Howard, Earl of **Wicklow**.  
 John Stuart, Marquis of **Bute**.  
 Charles Stuart, Lord **Stuart de Rothesay**.  
 William Murray, Earl of **Mansfield**.  
 James St. Clair Erskine, Earl of **Rosslyn**.

## DCLXIII.

MARCH 8, 1832.

Serious difficulties had arisen in Ireland from the collection of tithes, partly owing to the manner in which they were assessed, partly to the peculiar nature of the Irish Establishment. There was consequently an energetic movement for their commutation or extinction, and numerous petitions on the subject were presented to Parliament. The question was debated on the 27th of February,—Hansard, Third Series, vol. x, p. 731. A committee was appointed to enquire into and report on the collection of tithes in Ireland, which may be found in *Lords' Journals*, vol. lxiv, pp. 3–287; and on the 8th of March Lord Lansdowne moved five resolutions, to the effect—1st, the law of the payment of tithes has been rendered unavailing, and the clergy have been reduced to great distress; 2nd, that relief should be issued by the Lord Lieutenant in aid of this distress; 3rd, that the assistance should be distributed according to a particular system; 4th, that there should be a levy of arrears; and 5th, that tithes should be extinguished, including those belonging to lay impropiators, by converting them either into land or a charge on land. After a debate (*Hansard*, Third Series, vol. x, p. 1269), the resolutions were agreed to, and an Act was passed (2 and 3 Will. IV, cap. 41) in accordance with these resolutions.

The acceptance of the resolutions elicited the following protest.

Because no sufficient security is given in that resolution, nor was any sufficient explanation given in debate, by any spiritual or temporal Lord, to satisfy my mind that, when the House was called upon to sanction the extinction of tithes, any safe or adequate substitute would be provided for the clergy in their stead.

George Kenyon, Lord **Kenyon**.

John Thomas Freeman Mitford, Lord **Bedesdale**.

Ernest, Duke of **Cumberland**.

Robert Edward King, Viscount **Lorton**.

Henry Philpotts, Bishop of **Exeter**.

James Brownlow William Gascoyne Cecil, Marquis of **Salisbury**.

George Horatio Cholmondeley, Marquis **Cholmondeley**.

## DCLXIV.

APRIL 13, 1832.

The Reform Bill, rejected in the House of Lords in 1831 (the 7th of October), by 199 to 158, after five days' debate, was reintroduced into the House of Commons early in the Session which commenced on the 6th of December. The debate on the second reading commenced on the 9th of April, and was continued for four days, when a division was taken on the question whether 'now' should stand part of the motion. The affirmative was carried by 184 to 175,—Hansard, Third Series, vol. xii, pp. 4-459.

The following is the protest of the Duke of Wellington, to which the other Peers subjoined their names.

1st, Because in providing for the correction of abuses in the election of members to serve in the Commons' House of Parliament, we are bound, above all things, to bear in mind that the government of this country is, what from the earliest period of our history it has ever been, a monarchy; that this monarchy, limited by the laws and customs of the realm, and by the necessity imposed on the Sovereign of having constant recourse to the advice and aid of Parliament, is the form of government best adapted to the habits, wants, and wishes of the people, and consequently that no changes, however specious, can be worthy of adoption which would either strike at the principles of the monarchy itself, or would leave the Sovereign without the power of performing the high duties required from him, — without the free and independent exercise of his lawful prerogatives in guarding the general interests of the State, in upholding its ancient institutions, and affording due protection to the rights, liberties, property and lives of all his subjects. We feel it therefore to be the duty of Parliament, more especially of this House, to refuse to consign the country to so vast an untried change as is embodied in the present Bill, a change of which it has been justly said by one of the most distinguished advocates for the second reading, that it is, in truth, 'a new form of government, of which no one has ever pronounced

that it would be practicable, and which, if practicable, would be pernicious.'

2ndly, Because, admitting it to be expedient to correct abuses which may have grown up under the present system of Parliamentary election, and to extend to large, populous, and wealthy towns, the privilege of returning members to Parliament, we are bound to bear in mind that it has been also admitted by the authors of the Bill, that, notwithstanding any abuses and any deficiencies, 'the House of Commons as at present constituted is, above all other institutions of all other countries in the world, the institution best calculated for the general protection of the subject.'

3rdly, Because by this Bill that scrupulous regard to the sacredness of chartered rights and vested interests which has always hitherto been deemed part of the essential policy of the British Constitution, and a fundamental principle of British justice, is now for the first time utterly abandoned; the most ancient charters and the most valued interests are treated with a reckless indifference, which (whilst it is unnecessary to the attainment of the proposed objects—the correction of abuses and the improvement of the existing system) shocks every feeling of justice, and cannot fail to be made a precedent for still more fatal violations of those principles in future.

4thly, Because, in contemplating the violence done by this Bill to the great principle of prescription, we cannot disguise from ourselves the dangers which must arise to the most venerable of our institutions, which mainly rest on that principle; above all, to the highest of all, to that one on which all others depend.

5thly, Because, even if the principles of the Bill were consistent with the stability of the monarchy, and with the safety of our most valued institutions, yet the provisions by which it seeks to carry those principles into effect are for the most part unjust in themselves, partial in their operation, and anomalous in their character, ill adapted to their avowed purpose, and still more to the extensive and complicated interests of this mighty Empire. A preponderating influence in the election of the House of Commons is conferred upon the lowest class of inhabitants in towns, thus virtually closing the doors of the House of Commons to the vast monied and colonial interests, and leaving but few opportunities of admission to the heads of the great commercial body. The landed

interest, notwithstanding the professed intention of giving to it an increase of representation commensurate with that given to the great towns, is left exposed, even in the elections for counties, to the influence of the trading and manufacturing classes of the very places which are themselves to return members to Parliament,—an influence so great, as must leave in many instances the representation of counties and divisions of counties in the power of voters from the towns. The populous suburbs of the Metropolis have been subjected to the same innovating spirit which marks the operation of this Bill in every other particular; though it is manifest that this vast district, being connected in interests with the Metropolis itself, and being the seat of Government and of Parliament, must command attention, whether immediately represented or not, and equally manifest that the real danger must be lest the influence of the popular voice of the Metropolis should be too powerful; yet it has been thought fit to aggravate this danger in an uncalculable degree by creating new districts for representation, and virtually consigning the elections to universal suffrage; thus ensuring a perpetual recurrence of popular excitement in a quarter where, above all others, it is most to be deprecated, as injurious to the best interests of the industrious orders of the people, dangerous to the public peace, and hardly compatible with the free and independent exercise of the high functions of Parliament itself.

6thly, Because the exorbitant increase of the democratic element of the British Constitution designed by this Bill must give additional strength and impetus to a principle which, while duly restrained and tempered by the checks provided in the existing Constitution of Parliament, is the source of that genuine spirit of disciplined and enlightened freedom which is the proudest distinction of our national character, but which, without those checks or other equivalent restraints, could not fail to advance with augmented and accelerated force, till all other powers being drawn within its vortex, the Government would become a mere democracy; or, if the name and form of a monarchy were preserved, all that could give independence to the Sovereign or protection to the subject would be really excluded.

Arthur Wellesley, Duke of **Wellington**.  
Ernest, Duke of **Cumberland**.

William Frederic, Duke of **Gloucester**.  
James Edward Harris, Earl of **Malmesbury**.  
George Percy, Earl of **Beverley**.  
George Kenyon, Lord **Kenyon**.  
James Brownlow William Gascoyne Cecil, Marquis of **Salisbury**.  
Thomas Henry Foster Skeffington, Lord **Oriel** (Viscount Fer-  
rard).  
Henry William Poulett, Lord **Bayning**.  
George John West, Earl **Delawarr**.  
Robert Edward King, Viscount **Lorton**.  
Percy Clinton Sydney Smith, Lord **Penshurst** (Viscount  
Strangford).  
Thomas Egerton, Earl of **Wilton**.  
John Stuart, Marquis of **Bute**.  
Robert Gray, Bishop of **Bristol**.  
Henry Wellesley, Lord **Cowley**.  
Henry Philpotts, Bishop of **Exeter**.  
Thomas Wallace, Lord **Wallace**.  
Hugh Percy, Bishop of **Carlisle**.  
Henry Pelham Fiennes Pelham Clinton, Duke of **Newcastle**.  
William Carr Beresford, Viscount **Beresford**.  
William Wellesley Pole, Lord **Maryborough**.  
John William Robert Ker, Lord **Ker** (Marquis of Lothian).  
Thomas Cholmondeley, Lord **Delamere**.  
Richard Charles Francis Meade, Lord **Clanwilliam** (Earl of  
Clanwilliam).  
Edmond Henry Pery, Earl of **Limerick**.  
Alexander George Fraser, Lord **Saltoun**.  
George Child Villiers, Earl of **Jersey**.  
Francis North, Earl of **Guilford**.  
William Legge, Earl of **Dartmouth**.  
Robert Jocelyn, Lord **Clanbrassil** (Earl of Roden).  
Duprè Alexander, Earl of **Caledon**.  
Alexander Rowney Home, Earl of **Home**.  
John Colville, Lord **Colville of Culross**.  
John Jeffreys Pratt, Marquis of **Camden**.  
George Horatio Cholmondeley, Marquis of **Cholmondeley**.  
Charles William Stewart, Earl **Vane** (Marquis of Londonderry).  
George Murray, Bishop of **Rochester**.  
Thomas Pakenham, Earl of **Longford**.  
William Lowther, Earl of **Lonsdale**.  
Archibald Douglas, Lord **Douglas**.  
Edward Boscawen, Earl of **Falmouth**.  
William Draper Best, Lord **Wynford**.  
John Thomas Freeman Mitford, Lord **Redesdale**.  
John George Weld Forester, Lord **Forester**.  
Montagu Bertie, Earl of **Abingdon**.  
John Scott, Earl of **Eldon**.  
George Gordon, Earl of **Norwich** (Duke of Gordon).

John Robert Townshend, Viscount **Sydney**.  
 George Gordon, Lord **Meldrum** (Earl of Aboyne).  
 George de la Poer Beresford, Bishop of **Kilmore**.  
 John Bourke, Earl of **Mayo**.  
 Nicholas Vansittart, Lord **Bexley**.  
 John Henry Manners, Duke of **Rutland**.  
 Hugh Percy, Duke of **Northumberland**.  
 Walter Francis Montagu Douglas Scott, Earl of **Doncaster**  
 (Duke of Buccleuch).  
 William Murray, Earl of **Mansfield**.  
 Charles Duncombe, Lord **Feversham**.  
 James Walter Grimston, Earl of **Verulam**.  
 Henry James Montagu Scott, Lord **Montagu**.  
 James Hamilton, Marquis of **Abercorn**.  
 George William Finch Hatton, Earl of **Winchilsea and Nottingham**.  
 John Reginald Beauchamp Pyndar, Earl **Beauchamp**.  
 Henry Bathurst, Earl **Bathurst**.  
 Francis Barrett, Lord **De Dunstanville and Bassett**.  
 James Henry Monk, Bishop of **Gloucester**.  
 Dunbar James Douglas, Earl of **Selkirk**.  
 Stapleton Cotton, Viscount **Combermere**.  
 Henry Addington, Viscount **Sidmouth**.  
 John George de la Poer Beresford, Archbishop of **Armagh**.  
 Thomas Manners Sutton, Lord **Manners**.  
 James St. Clair Erskine, Earl of **Rosslyn**.  
 John Cust, Earl **Brownlow**.  
 Horatio Walpole, Earl of **Orford**.  
 Richard William Penn Curzon Assheton Howe, Earl **Howe**.  
 Charles Stuart, Lord **Stuart de Rothesay**.  
 Richard Bagot, Bishop of **Oxford**.

## DCLXV.

JUNE 1, 1832.

The amendments made in the Reform Bill by the Committee of the Lords were reported on this day, and a motion was made by Lord Lansdowne that the report be received. The motion was met indignantly by Lord Carnarvon, but no division was taken. The following protest was entered.

1st, Because this Bill will effect a change in the constitution of Parliaments to an extent uncalled for, and full of danger; incapable of producing much practical good, but likely to prove in its operation subversive of the antient and settled institutions of the country.

andly, Because, by an uniform and low rate of qualification

in the towns, the greatest share of power will be given to the smallest portion of property, which will tend to make every description of property, whether mercantile, colonial, real or personal, equally insecure.

3rdly, Because it is in its character not remedial, but revolutionary; in practice equally injurious to the poor and to the rich; depriving the Government of the strength which it requires, and property of its due influence; endangering as well the stability of the Throne as of every civil and religious establishment under which, in this country, commerce, prosperity and freedom have attained an elevation envied, but as yet unrivalled, by all the nations of Europe.

Henry George Herbert, Earl of **Carnarvon**.

Ernest, Duke of **Cumberland**.

George Kenyon, Lord **Kenyon**.

Richard Temple Nugent Brydges Chandos Grenville, Duke of **Buckingham and Chandos**.

John Thomas Freeman Mitford, Lord **Redesdale**.

Percy Clinton Sydney Smith, Lord **Penshurst** (Viscount **Strangford**).

Fletcher Norton, Lord **Grantley**.

Montagu Bertie, Earl of **Abingdon**.

Walter Francis Douglas Scott, Earl of **Doncaster** (Duke of **Buccleuch**).

George William Finch Hatton, Earl of **Winchilsea and Nottingham**.

Henry Hall Gage, Lord **Gage** (Viscount **Gage**).

George Child Villiers, Earl of **Jersey**.

Dunbar James Douglas, Earl of **Selkirk**.

John Henry Manners, Duke of **Rutland**.

Horatio Walpole, Earl of **Orford**.

Hugh Percy, Duke of **Northumberland**.

George Percy, Earl of **Beverley**.

Henry Richard Greville, Earl **Brooke and Warwick**.

## DCLXVI—DCLXXVI.

JUNE 4, 1832.

Lord Grey moved the third reading of the Reform Bill; most of the opposition Peers, in consequence perhaps of a hint given by Lord Carnarvon on the 1st of June, being absent from the House. There was a division however, twenty Peers voting against the third reading to one hundred and six for it.

The following protests were entered. The authority for the names as originating the several protests is Hansard.

## I. LORD ELDON'S PROTEST.

Because I cannot consider the changes made by this Bill in the representation of the people as founded upon the acknowledged principles of the Constitution, or tending to uphold the just rights and prerogatives of the Crown, and to give security to the liberties of the people.

Because I think that this Bill cannot be a final adjustment as to the representation of the people, and that it must, by the operation of the principles upon which it is founded, lead to further dangerous changes in the Constitution, bringing into imminent hazard the monarchy and the prerogatives of the Crown, and consequently, the rights and liberties of the people.

Because this Bill appears to me calculated to introduce unnecessarily into the Constitution of the House of Commons increase of democratical influence, not called for by any increase of influence in the other branches of the Legislature.

Because it is difficult to consider that the debates of this House concerning this important Bill, and their decision upon it, are not in some degree influenced by apprehensions, whether well or ill founded, but entertained, that this Bill would be carried by the introduction of additional members into the House if it was not adopted by the majority of the existing Peers.

Because having observed the great anxiety with which the laws and customs of the realm have for ages held sacred the rights of property and other vested rights, I cannot agree to the unqualified and unconditional destruction by this Bill of such rights. With respect to corporations, if such destruction of the rights of close corporations, existing by charter or prescription, could be justified, I cannot think it therefore just to disfranchise the members of corporations, which are not close corporations, or partly to disfranchise them, by enabling others to enjoy, together with such corporations, franchises granted to the latter only.

Because the rights of many, unconditionally disfranchised by this Bill, have been often recognized as rights of property, and not as less rights of property because the property is charged with the due execution of a trust. If for that reason only, Parliament can be justified in destroying such property, the mischievous extent to which such a principle may be carried, is



most alarming, and worthy of most serious consideration. What security could the owners of advowsons, for instance, which advowsons are temporal property, though connected with a most important and sacred trust, have for such property, if they are to be deprived of it merely because it is so connected? In the proceedings upon this Bill no evidence of breach of trust has been called for, according to the practice of Parliament for a long series of years, to justify unconditional disfranchisement.

Because it has appeared to me, after a most anxious consideration of the duty which I owe to my sovereign, and my fellow subjects of all classes, that I am bound to withhold my assent from this measure, being persuaded, though it is a measure of change undoubtedly, it is not, in my judgment, a measure of beneficial reform; and because I dare not hazard a change in those institutions of my country, which have hitherto made it the happiest in the world, unless it could have been made to appear that its happiness and glory would be encreased by such change.

John Scott, Earl of **Eldon**.

John Fane, Earl of **Westmorland**.

Ernest, Duke of **Cumberland**.

Charles William Vane Stewart, Earl **Vane** (Marquis of Londonderry).

Hugh Percy, Bishop of **Carlisle**.

George Kenyon, Lord **Kenyon**.

Henry Philpotts, Bishop of **Exeter**.

William Murray, Earl of **Mansfield**.

Fletcher Norton, Lord **Grantley**.

William Legge, Earl of **Dartmouth**.

Henry Pelham Fiennes Pelham Clinton, Duke of **Newcastle**.

James Edward Harris, Earl of **Malmesbury**.

George Augustus Frederic Charles Holroyd, Lord **Sheffield** (Earl of Sheffield).

Robert Smith, Lord **Carrington**.

Thomas De Grey, Lord **Walsingham**.

John Thomas Freeman Mitford, Lord **Redesdale**.

John George Weld Forester, Lord **Forester**.

Percy Addington, Viscount **Sidmouth**.

George William Finch Hatton, Earl of **Winchelsea and Nottingham** (for the first, second, third, fourth, and fifth reasons).

Thomas Manners Sutton, Lord **Manners**.

William O'Bryen, Marquis of **Thomond**.

Percy Clinton Sydney Smith, Lord **Penshurst** (Viscount Strangford).

John Rolle, Lord **Rolle**.

James Andrew John Laurence Charles Drummond, Viscount  
**Strathallan.**

Francis North, Earl of **Guilford.**

Henry Peyto Verney, Lord **Willoughby de Broke.**

Charles Duncombe, Lord **Feversham.**

Stapleton Cotton, Viscount **Combermere.**

Thomas Cholmondeley, Lord **Delamere.**

Frederic John Monson, Lord **Monson.**

Montagu Bertie, Earl of **Abingdon.**

George Gordon, Earl of **Norwich** (Duke of Gordon).

## II. LORD WYNFORD'S PROTEST.

1st, Because, although desirous of extending the elective franchise as speedily, and as far as it can be extended, with safety to the rights of property, and to the Constitution of the country, the great and sudden alteration which this Bill makes in the representation of the people, is an experiment dangerous to the prerogatives of the Crown, the independence of both Houses of Parliament, and the rights and liberties of the people. Every advance made in the formation of a plan of representation would have given security for its accomplishment, whilst the consequences of hasty proceedings can never be retrieved.

2ndly, Because the elective franchise is by this Bill unequal, and unjustly distributed; for whilst it gives to many of the inhabitants of represented towns double, and in some instances treble votes, it gives no vote to the householders of other towns and villages of equal, and many of them of higher classes, although these unrepresented householders amount to half the householders of England and Wales, and are men of equal wealth, respectability, and intelligence with the householders of the represented towns; thus the favoured towns will return an overwhelming majority of the members for England and Wales, and the interests of the whole Kingdom will be entirely in the power of the inhabitants of these towns.

3rdly, Because by this Bill the influence of the landed interest is destroyed, by its giving a majority of the members taken from those boroughs which usually supported that interest, to the great towns, and by its depriving it of the county representation, by allowing the inhabitants of represented towns to vote for knights of the shire for estates within such towns. Because no pretence

is stated in the Bill for disfranchising the towns contained in Schedule B, many of which towns have more voters now, and will have more voters under this Bill, than some towns that are to retain both their members; and because there are many towns which will retain their members, although it is notorious the electors of these towns are as completely under the controul of Peers, and other wealthy individuals, as the electors in any of the towns in Schedule A, and must return the members nominated by such Peers or other individuals.

4thly, Because, although the preamble of the Bill states that one of its objects is to prevent abuses at elections, no provision is made for the prevention of any one abuse.

5thly, Because the Bill is so imperfect that it cannot be carried into execution without the aid of some other law, thereby giving a pretence for keeping up a discussion upon the question of Parliamentary Reform, and continuing the excitement that now unfortunately prevails. This Bill has created boroughs without determining their extent or the population which they are to contain; divided counties without settling the line of division; created courts without appointing any officers to them; given those courts the power of examining witnesses, without enabling them to compel the attendance of witnesses, or providing for the payment of their expenses; imposed unnecessary burthens on all churchwardens and overseers, and a very heavy and unnecessary expence on small parishes.

6thly, Because this Bill, instead of settling the question of Parliamentary Reform, will excite discontent, and, instead of concluding the question, will be only the one of a series of measures which will end in the destruction of the Constitution.

William Draper Best, Lord Wynford.

George Kenyon, Lord Kenyon (for all the reasons except the second).

### III. LORD ELLENBOROUGH'S PROTEST.

Because the Bill, changing the constituency of every county, city and borough, disfranchising with injustice, in many cases enfranchising with impolicy or partiality, leaving or creating as many incongruities as it attempts to correct, opening many new

questions, and settling none, contains within itself the elements of further change, and thus tends to continue an agitation destructive of the comfort of society, and fatal to the prosperity of the country.

Edward Law, Lord **Ellenborough**.

Richard Temple Nugent Brydges Chandos Grenville, Duke of **Buckingham and Chandos**.

George Percy, Earl of **Beverley**.

Charles William Vane Stewart, Earl **Vane** (Marquis of Londonderry).

John Thomas Freeman Mitford, Lord **Redesdale**.

John George Weld Forester, Lord **Forester**.

John Colville, Lord **Colville of Culross**.

John Robert Townshend, Viscount **Sydney**.

Robert Jocelyn, Lord **Clanbrassil** (Earl of Roden).

George Augustus Frederic George Holroyd, Lord **Sheffield** (Earl of Sheffield).

Thomas Cholmondeley, Lord **Delamere**.

John Poulett, Earl **Poulett**.

Henry Clinton Sydney Smith, Lord **Penshurst** (Viscount Strangford).

Montagu Bertie, Earl of **Abingdon**.

George Gordon, Earl of **Norwich** (Duke of Gordon).

Hugh Percy, Duke of **Northumberland**.

Walter Francis Douglas Scott, Earl of **Doncaster** (Duke of Buccleuch).

#### IV. DUKE OF NEWCASTLE'S PROTEST.

1st, Because we object to the principle as well as to the details of the Bill, which, whilst it arbitrarily condemns and annihilates various boroughs without even the semblance of a trial or charge of delinquency, at once effects a wanton and violent change in the Constitution, shaking our confidence in the Executive Government, and forming a fearful precedent of despotic rule and disregard of vested rights, endangering the possession of every species of property, endangering the security of all the existing institutions of the country, whether of the Church, the Throne, or the State, and thus tending to the accomplishment of a revolution in this country, hitherto so famed and envied for its wise, free and well-balanced Constitution.

2ndly, Because we object to the shameful mode by which a majority was obtained for the second reading and subsequent stages of the Bill; the most scandalous arts of seduction and

menace having been resorted to in order to effect the purpose. Even during the debate we were told by one of the King's ministers, with a view to overbear the decision of the House, 'that the Crown and the people were opposed to fewer than two hundred Peers of this House;' thus intimating that we were slavishly to bow to a superior will, and not freely and fearlessly to exercise our deliberate and unbiassed judgment in the execution of our indispensable duty.

3rdly, Because we know that the threat of creating Peers induced many Lords to adopt a course which they conceived was calculated to avert the desolating indignity, and that they avowedly voted for the second reading in consequence. That an agreement was made with many Lords of this House, that if they would not vote against the second reading of the Bill, the King would not be advised to create Peers for the special purpose of carrying the wanton and guilty measure of reform. That in the committee, in consequence of a division against the ministers, the consideration of the first clause was postponed, whereupon the said ministers thought fit to recommend to the King to create the Peers in question, which recommendation being rejected, those ministers resigned their offices. That after an ineffectual endeavour to form another administration, the same ministers were reinstated in their offices, on which occasion they announced in Parliament that they had consented to resume their offices only on the express understanding that the Reform Bill was to pass un-mutilated and unaltered. That in consequence of the King's gracious and fixed determination not to yield to the advice to create Peers, another expedient was resorted to, equally unconstitutional, more derogatory, perhaps, to the character of the House, equally subversive of its integrality and independence, namely, that various Lords of this House were invited or desired to absent themselves, or secede from their attendance, during the future debates, and thus to devote the remainder to an absurd, fruitless and utterly ineffectual resistance. That in this manner, and in this manner only, has the Bill been carried by force, stratagem and violence.

4thly, Because from this it has resulted that the House of Lords is under duress, deliberation has been destroyed; and therefore it has been rendered incompetent to discuss the question. The Bill

cannot be considered to have received the sanction of this House, and cannot be properly entitled an Act of Parliament; for as well, and better, might the Bill have been taken directly from the Commons to the King for his Majesty's approval, passing by the Lords, as that it should have been forced through the House in the scandalous, and fortunately hitherto unexampled, manner here faintly described.

5thly, Because, as to a creation of Peers, it must be manifest that Peers so made would be not to strengthen and support the Monarchy and the Constitution of the country, but to assault and overthrow both, by the open violation of an implied and solemn compact on the part of the one, and the treasonable attempt thus to carry a measure framed for the purpose of overturning the other.

6thly, Because, by the proceedings enumerated, the royal authority has been extended for purposes not contemplated by law, and the King has been advised and induced to control and to coerce the free deliberations of the House of Lords, whereby the dignity and character of the House have been grievously impaired, and its rights, privileges and independence have been alarmingly outraged, and most unconstitutionally violated.

7thly, Because from henceforth, unless some effectual stop be put to the possibility of a threatened exercise of abused prerogative and arbitrary power, this House is no longer free, its functions are null and void, our debates will be a mere mockery, and the existence of a House of Lords, not what it has been, the honour and safeguard of the nation, but a degraded and melancholy example of abased nobility and fallen greatness.

8thly, For the foregoing reasons we have conceived ourselves called upon to enter the record of our most solemn protest, not only against the iniquitous measure itself, but against the various outrageous and unprecedented proceedings which have accompanied its passage through this House of Parliament.

Henry Pelham Fiennes Pelham Clinton, Duke of Newcastle.  
George Kenyon, Lord Kenyon (for the first and seventh reasons).  
Montagu Bertie, Earl of Abingdon (for the first reason).

#### V. THE EARL OF POWIS' PROTEST.

Because the Bill is a measure of violation and force which sweeps

away and annihilates long established and vested rights of Englishmen, the example of which must endanger and render property insecure.

Because the Bill is founded on disfranchisement, and in this respect is contrary to law and justice and constitutional freedom. By law the elective franchise is a valuable right and privilege, the disturbance of which is remediable by action; it is a property of the highest nature, as fixed and sacred in the electors of boroughs as in the electors for counties. It is declared by the highest legal authority, that a freeholder can no more be deprived of his right of voting than of his freehold; yet this Bill, without proof of abuse, without evidence, and without necessity, destroys in many boroughs, and mutilates in others, a right which, from the first dawn of the Constitution, has been one of those most valued by Englishmen,—a right in every instance vested, in some instances hereditary during a succession of ages, and in others intimately and directly connected with property in land. Disagreeing with the principles of this Bill, considering it to strike at the root of all property and hereditary right, and of acquired privilege, and holding it inconsistent with the liberties of Englishmen, and of the British Constitution, I record this protest against this Bill, as a measure effecting an unjust and violent purpose in an unconstitutional and oppressive manner.

Edward Clive, Earl of Powis.

James Edward Harris, Earl of Malmesbury.

John Thomas Freeman Mitford, Lord Redesdale.

John Rolfe, Lord Rolfe.

John George Weld Forester, Lord Forester.

Henry Clinton Sydney Smith, Lord Penshurst (Viscount Strangford).

Montagu Bertie, Earl of Abingdon.

#### VI. LORD MELBOS' FIRST PROTEST.

Because the principles of this Bill are carried to an extent that will give an undue preponderance to the popular branch of the Legislature, and by thereby endangering the privileges of this House, and the legitimate power and prerogatives of the Crown, may in the end destroy that balance, on the maintenance of which depends the existence of the Constitution and of the settled institutions of the country.

Because, by reason of the great, long-continued and alarming excitement of the public mind, a serious impediment has been interposed to a calm and deliberate consideration of the principles and details of the measure, whereas without such consideration extensive and fundamental changes in the laws and government of a country cannot be rendered safe and permanent.

Because by reason of the intemperate and unconstitutional advice offered to his Majesty by his ministers (on occasion of the postponement of the consideration of the first clause of the Bill while in the committee), accompanied by the tender of the resignation of their offices, and by reason of the embarrassments and difficulties in which the Crown has been thereby involved,—so many Peers withdrew themselves from attendance on the service of this House during the further progress of the Bill, in the conviction that the House was virtually precluded from the independent exercise of its functions. That the Bill has thus been carried almost unaltered, and under circumstances alike injurious to the public interest, and to the honour, dignity, and independence of this House.

Thomas Hamilton, Lord **Melros** (Earl of Haddington).

James Edward Harris, Earl of **Malmesbury**.

John Thomas Freeman Mitford, Lord **Redesdale**.

George Augustus Frederic Henry Bridgman, Earl of **Bradford**.

John George Weld Forester, Lord **Forester**.

George William Finch Hatton, Earl of **Winchilsea and Nottingham**.

Henry Hall Gage, Lord **Gage** (Viscount Gage).

James Archibald Stuart Wortley Mackenzie, Lord **Wharnccliffe**.

Edward Bootle Wilbraham, Lord **Skelmersdale**.

John Robert Townshend, Viscount **Sydney**.

Richard Butler, Earl of **Glengall**.

Richard Temple Nugent Brydges Chandos Grenville, Duke of **Buckingham and Chandos**.

William Legge, Earl of **Dartmouth**.

Montagu Bertie, Earl of **Abingdon**.

Walter Francis Scott Douglas, Earl of **Doncaster** (Duke of Buccleuch).

## VII. THE EARL OF BEVERLEY'S PROTEST.

1st, Because in my opinion the Bill destroys that balance between the various interests of the community, the maintenance of which constitutes the excellence of the representative system.

2ndly, Because the Bill in its principle and its provisions is



unjust, incongruous and partial; condemning unheard, and depriving of their most ancient rights and privileges, a large portion of the people.

3rdly, Because in the origin, the progress and the passing of this measure, popular excitement has been inflamed, intimidation and menace made use of, and advice pressed upon his Majesty by the ministers of the Crown, injurious to his royal prerogative, and utterly destructive of the independence of the House of Peers.

George Percy, Earl of **Beverley**.

John Thomas Freeman Mitford, Lord **Redesdale**.

John George Weld Forester, Lord **Forester**.

Hugh Percy, Bishop of **Carlisle**.

Frederic John Monson, Lord **Monson**.

Richard Temple Nugent Brydges Chandos Grenville, Duke of **Buckingham and Chandos**.

William Murray, Earl of **Mansfield**.

Henry Philpotts, Bishop of **Exeter**.

Henry Clinton Sydney Smith, Lord **Penshurst** (Viscount **Strangford**).

Montagu Bertie, Earl of **Abingdon**.

#### VIII. LORD MELBOS' SECOND PROTEST.

Because important amendments have been rejected by the influence of Government, which amendments did not in the slightest degree militate against any one of the three great principles on which the supporters of the Bill contend that it is founded. By one of these amendments it was proposed to enact that no property within boroughs should confer on its possessors a right to vote for the county, while a compensation was to be given to such possessors by conferring on them the right of voting for the place in which their property and their interest actually lay. This amendment was right and expedient, because it tended really to give to landed property no more than that just influence in county elections, to which, by the spirit of the representative system, it is fairly entitled. It was the professed intention of the framers of the Bill to protect that interest by the increased representation of the counties; whereas the Bill as it now stands (this proposal having been negatived) bestows an undue preponderance, even in county elections, on the manufacturing and commercial classes

of the community, and that in addition to the increased influence given to those classes by the enfranchisement of the towns and places enumerated in Schedules C and D, and by the altered constituency of many of the remaining boroughs. The reasonable expectations of the agricultural interest, thus encouraged, have been disappointed in a manner as inconsistent with that sound policy which dictates that a just balance should be maintained between the several important interests in the country, as it is with that perfect fair dealing which should ever characterize all the proceedings of the Legislature and of the Government. The Bill, amended as proposed, would still have given much more to the manufacturing and commercial classes than the clause itself would have taken from them, and the influence secured by that clause to the landed property, though considerable, would not have proved equivalent to that of which it would still have been deprived by the Bill.

Thomas Hamilton, Lord **Melros** (Earl of Haddington).

James Archibald Stuart Wortley Mackenzie, Lord **Wharncliffe**.

Henry Hall Gage, Lord **Gage** (Viscount Gage).

Richard Butler, Earl of **Glengall**.

James Edward Harris, Earl of **Malmesbury**.

Walter Francis Scott Douglas, Earl of **Doncaster** (Duke of Buccleuch).

#### IX. LORD MANSFIELD'S PROTEST.

1st, Because, though in the preamble to the Bill it is declared that it is expedient to take effectual measures for correcting divers abuses which have long prevailed in the choice of members to serve in the Commons' House of Parliament, no abuses are described nor is any correction applied.

2ndly, Because, though it is declared to be expedient to deprive inconsiderable places of the right of returning members, the expediency is merely asserted, but has not been proved, nor could this House be governed by considerations of expediency inconsistent with justice. We protest against the doctrine that any individual or corporate body can be justly deprived of any rights which have been legally enjoyed: whether the right be of the nature of an absolute property, or of a trust connected with property, consistently with the principles of justice, which under all circum-

stances must be immutable; either delinquency must have been proved, or compensation must have been given, before the sacrifice was exacted: upon this principle Parliament proceeded in approving the purchase of the heritable jurisdictions in Scotland; and in a more recent and analogous instance, compensation was given by the Irish Parliament to individuals and to corporate bodies in Ireland, for the deprivation of their right of returning members.

3rdly, Because, though it is stated in the preamble that it is expedient to deprive inconsiderable places of the right of returning members, and to grant such privilege to large and populous towns, no positive rule has been observed in defining them. If a preference had been invariably given to those towns which contained the greatest number of inhabitants, and which had paid the greatest amount of assessed taxes, some places which are now assumed to be most populous and wealthy, would have been excluded, and others would have been inserted in the list of those which are entitled to this privilege; and again, if a uniform rule had been observed in adding to the old boroughs such an extension of territory as would have given them a reasonable number of electors, some places now excluded as inconsiderable would have retained a portion of their rights.

4thly, Because this House has been disturbed in the free exercise of its judgment upon these and many other objectionable parts of the Bill; for a noble Lord, who had opposed the second reading, declared, in his place, that though he still objected to the Bill, he would withhold all future opposition to its progress, the House having been given to understand that his Majesty's ministers had resumed the offices, which they had lately resigned, upon the condition that his Majesty would adopt their advice to create such a number of Peers as would secure the passing of this Bill unaltered in its most important provisions; and further that noble Lord declared, that he adopted that line of proceeding by compulsion, preferring the passing of this Bill to the creation of Peers, which was considered to be a greater calamity; and there is reason to believe that other noble Lords were influenced by the same consideration. To the statement of the advice tendered to his Majesty, and of the consent obtained, his Majesty's ministers gave no contradiction. It appears to us, therefore, to be our duty to protest against the passing of this Bill; the parliamentary forms have

been observed, but the independent action of the House has been constrained by the apprehension of the danger to which it was exposed; and though the Bill, if it should receive the royal assent, will pass into a law, yet as the validity of any Act which should have passed with the consent of only two branches of the Legislature would be justly questioned, so, according to the general principles of law, the free consent of the House of Lords cannot be assumed, and every deed or instrument executed under compulsion or threat would be illegal and void.

William Murray, Earl of **Mansfield**.

Thomas Philip Weddel Robinson, Lord **Grantham**, for the fourth reason.

James Edward Harris, Earl of **Malmesbury**.

John Evans Freke, Lord **Carbery**, for the fourth reason.

George Kenyon, Lord **Kenyon**.

Henry Richard Greville, Earl **Brooke** (Earl of Warwick).

Hugh Percy, Duke of **Northumberland**, for the fourth reason.

Robert Smith, Lord **Carrington**.

John Thomas Freeman Mitford, Lord **Redesdale**.

John Rolle, Lord **Rolle**.

George William Finch Hatton, Earl of **Winchilsea and Nottingham**, for the fourth reason.

James Andrew John Laurence Charles Drummond, Viscount **Strathallan**.

Charles Brudenell Bruce, Marquis of **Ailesbury**.

Charles Duncombe, Lord **Feversham**.

Henry Peyto Verney, Lord **Willoughby de Broke**.

Francis North, Earl of **Guilford**.

Thomas Manners Sutton, Lord **Manners**.

Heneage Finch, Earl of **Aylesford**.

John Colville, Lord **Colville of Culross**.

Thomas Cholmondeley, Lord **Delamere**.

Richard Temple Nugent Brydges Chandos Grenville, Duke of **Buckingham and Chandos**.

Frederic John Monson, Lord **Monson**.

Henry Clinton Sydney Smith, Lord **Penshurst** (Viscount Strangford).

George Augustus Frederic George Holroyd, Lord **Sheffield** (Earl of Sheffield).

Montagu Bertie, Earl of **Abingdon**.

#### X. THE MARQUIS OF SALISBURY'S PROTEST.

Because by the ancient laws and constitution of this realm the House of Peers is entitled to exercise a free and uncontrolled judgment in framing, altering and amending Bills in Parliament, before

they can attain the validity of law, and because the said privilege has been invaded and rendered of none effect by the unconstitutional advice given to his Majesty (advice which is not denied by his servants) to create Peers in sufficient numbers to controul the decision of this House, and consequently to secure an unconstitutional majority in favour of this measure.

James Brownlow William Gascoyne Cecil, Marquis of **Salisbury**.  
Henry Clinton Sydney Smith, Lord **Penshurst** (Viscount Strangford).

John Thomas Freeman Mitford, Lord **Bedesdale**.

Fletcher Norton, Lord **Grantley**.

John George Weld Forester, Lord **Forester**.

George Kenyon, Lord **Kenyon**.

George Percy, Earl of **Beverley**.

Henry Richard Greville, Earl **Brooke** (Earl of Warwick).

Charles Brudenell Bruce, Marquis of **Ailesbury**.

Robert Smith, Lord **Carrington**.

Charles Duncombe, Lord **Feveraham**.

Thomas Manners Sutton, Lord **Manners**.

Henry Peyto Verney, Lord **Willoughby de Broke**.

Francis North, Earl of **Guilford**.

Heneage Finch, Earl of **Aylesford**.

Henry Hall, Gage, Lord **Gage** (Viscount Gage).

Edward Bootle Wilbraham, Lord **Skelmersdale**.

George Augustus Frederic George Holroyd, Lord **Sheffield**  
(Earl of Sheffield).

John Robert Townshend, Viscount **Sydney**.

Robert Jocelyn, Lord **Clanbrassil** (Earl of Roden).

John Fane, Earl of **Westmorland**.

Hugh Percy, Bishop of **Carlisle**.

Thomas Philip Weddel Robinson, Lord **Grantham**.

Thomas Robert Henry Drummond, Lord **Hay** (Earl of Kinnoull).

John Evans Freke, Lord **Carbery**.

Walter Francis Scott Douglas, Earl of **Doncaster** (Duke of Buccleuch).

Hugh Percy, Duke of **Northumberland**.

John Rolle, Lord **Rolle**.

## XI. THE EARL OF MALMESBURY'S PROTEST.

1st, Because I feel convinced that the leading character of the provisions of this Bill is to reduce that due proportion of influence which the agricultural interest ought to possess, and ever has possessed, in the Commons' House of Parliament.

2ndly, Because some of the enactments of this Bill are to be carried into execution by calling for aid (and that in not a few cases largely) on that fund which, under the denomination of poor rates, is levied for the maintenance and support of the aged, the infirm and the needy; which call becomes in a greater degree objectionable and unjust when, in such boroughs where the whole parish is not included, the rate-payers will have to assist in defraying the expences incidental to the bestowing that elective franchise on their fellow parishioners from the which they themselves are excluded; and in all instances, must females, and those otherwise disqualified, be thus exposed to a partial and arbitrary tax on the property that they occupy or possess.

3rdly, Because the duties imposed on the overseers of the poor under this Act are of a most onerous, complicated and harassing nature; exposing them to a penalty of the severest description, should they fail in the due execution of such duties, which are in some instances of a double nature, both as applying to the registering of votes for counties, and boroughs, without affording these persons the slightest remuneration for the labour and inconvenience to which it subjects them, or for loss of time, which to individuals in that class of the community on which chiefly such duties are compulsory, may be considered as loss of property.

4thly, Because the result of the operation of this Bill will be, that, in many instances, the office of overseer will be endeavoured to be evaded by the most respectable and competent persons for the filling that important office, and will, at the same time, be eagerly sought after by needy adventurers and meddling and interested demagogues, for electioneering purposes, whereby the interests and welfare of the poor may become of secondary importance, and may be either totally neglected, or most materially injured; and those vast sums, now so partially levied under the denomination of poor rates, squandered or misapplied.

James Edward Harris, Earl of **Malmesbury**.  
Henry Hall Gage, Lord **Gage** (Viscount Gage).  
John Thomas Freeman Mitford, Lord **Redesdale**.  
Thomas Cholmondeley, Lord **Delamere**.  
John George Weld Forester, Lord **Forester**.  
Frederic John Monson, Lord **Monson**.  
Hugh Percy, Bishop of **Carlisle**.  
William Murray, Earl of **Mansfield**.

Hugh Percy, Duke of Northumberland.

John Rolle, Lord Rolle.

Walter Francis Scott Douglas, Earl of Doncaster (Duke of Buccleuch).

## DCLXXVII.

JULY 13, 1832.

The Scotch Reform Bill passed on this day. No division was taken on it, but during the course of the debate, just before the second reading, Lord Haddington called attention to the loss which the Bill entailed on the 'owners of superiorities' who had alone possessed the county franchise before the Reform Bill, and who were to lose it thereafter. Lord Haddington valued these rights at about £400 a-piece. When the second reading of the Bill was moved by Lord Brougham, explanations as to the working of this practice were given. See Hansard, Third Series, vol. xiv, p. 55.

1st, Because the Bill that has just received the sanction of this House does not do justice to the fair claims of Scotland, and has not been framed with a due reference to the peculiar situation and circumstances of that country: it is believed that at the time of the union the amount of the Scottish representation was fixed with reference to the proportion that the combined population and revenue of Scotland bore to the population and revenue of England. A similar principle has been followed in framing the disfranchising and enfranchising schedules in the English Reform Bill. An adherence to this just rule on the present occasion would have added probably eighteen or twenty members, instead of eight, to the numbers composing the new representation of Scotland.

2ndly, Because great attention having been paid to the claims of large, populous and wealthy counties in England, many of the greatest and wealthiest and most populous Scottish counties have been left by this Bill with an inadequate and scanty representation.

3rdly, Because the combination of land and house property in the construction of the county qualification would seem to have been adopted without due consideration of the nature and condition of landed tenures in Scotland, and of the numbers and circumstances of the constituency thereby about to be established. This part of the system, founded in apparent ignorance of the circumstances that ought to have determined the principles and details of such an arrangement, is likely to impair the just and wholesome influence

of the landed and agricultural interest, and of those persons of intelligence and property adverted to with so much propriety in the preamble of the Bill: whereas with care and attention more ways than one might have been devised of establishing a sound and constitutional system of popular election, whereby the interests of all classes would have been consulted, without subjecting the county in so great a degree to the chance of fraud and litigation, of expensive contests, and of bribery and corruption; evils hitherto little known in the history of Scottish county elections.

4thly, Because the landed interest is still further aggrieved by the denial of all compensation for the great loss it will sustain by the annihilation of the political value of superiorities. The value of landed property throughout Scotland will be thereby greatly deteriorated, and much injustice done to all persons and bodies interested in such superiorities, and in the rights hitherto enjoyed under the law and constitution of Scotland by holders of that description of property. This denial is contrary to justice, to conservative principles, and to sound policy.

5thly, Because an immense change has been suddenly made by this Bill in the representative constitution of Scotland, without due consideration of the probable effects of this extensive experiment on the political influences and social relations of that country, and on the peace, property and happiness of the people.

6thly, Because for these reasons, and not from any wish to withhold from the people of Scotland a safe, constitutional and liberal extension of political franchise, which the circumstances of the present time render it more expedient to grant, I dissent from the passing of this Bill.

Thomas Hamilton, Lord **Melros** (Earl of Haddington).  
William Murray, Earl of **Mansfield**, for the first five reasons.  
George Gordon, Viscount **Gordon** (Earl of Aberdeen).

For all the reasons except the fourth.

James St. Clair Erskine, Earl of **Rosslyn**.



## DCLXXVIII—DCLXXX.

JULY 30, 1832.

The following protests were entered against the third reading of the Irish Reform Bill.

Because we look upon the passing this Bill as destructive of the Protestant interest, and thus endangering the Established Church in Ireland.

Ernest, Duke of Cumberland.

William Draper Best, Lord Wynford.

Nicholas Vansittart, Lord Bexley.

James Brownlow William Gascoyne Cecil, Marquis of Salisbury.

1st, Because I think the Irish Reform Bill is unjust in principle and mischievous in detail; it deprives Protestant freemen of their privileges, and overthrows those guards for the protection of Protestantism in Ireland which our ancestors so wisely established, and by which, under God, the blessings of civil and religious liberty have been hitherto preserved to all classes of his Majesty's subjects.

2ndly, Because it will be the means of destroying the Protestant Church Establishment in Ireland, and erecting in its place a system of error and superstition calculated to enslave the minds of the people.

3rdly, Because it gives additional power to Roman Catholic priests and demagogues to control the electors in the choice of their representatives, and will thereby ensure a return to the Commons' House of Parliament of those who are opposed to the influence of property and the permanence of British connexion.

4thly, Because I think it will lead to a series of measures destructive of the best interests of the country, and produce anarchy and confusion throughout the whole Empire.

Robert Jocelyn, Lord Clanbrassil (Earl of Roden).

Thomas Pakenham, Earl of Longford, for third and fourth reasons.

Because the provisions of this Bill appear necessarily to endanger the salutary effects of those measures, which, at the period of the Union between Great Britain and Ireland, were considered

such as best tended to strengthen and consolidate the connection between the two Kingdoms, and which were adopted in order to promote and secure the essential interests of both, and to consolidate the strength, power, and resources of the British Empire.

Because the provisions of this Bill have a tendency to prejudice the Protestant interests of the United Kingdom, and to endanger the one Protestant United Episcopal Church of England and Ireland, the continuance and preservation of which has been declared to be an essential and fundamental part of the Union.

John Scott, Earl of **Eldon**.

Thomas Pakenham, Earl of **Longford**.

George Thomas John Nugent, Marquis of **Westmeath**.

John Thomas Freeman Mitford, Lord **Redesdale**.

## DCLXXXI.

AUGUST 1, 1832.

By Act of Parliament, 55 George III, cap. 115, the Government, in consequence of an engagement entered into with the King of the Netherlands and the Emperor of Russia, bound itself to pay the interest on 25,000,000 Dutch florins to the Russian treasury, with a sinking fund. The payment was made for services in the Continental war. A treaty was simultaneously entered into between the Kings of the Netherlands and England, in consequence of the incorporation of Belgium with the Netherlands, by which the King of Holland agreed to pay a similar sum by way of interest to Russia. But by certain secret articles in the treaty, it was stipulated that this payment from Holland should be diminished proportionately if she lost any of the Belgian provinces. This had occurred, and the question arose as to whether the moiety payable by England could legally be paid any longer. In order to obviate doubts, an Act 2 and 3 William IV, cap. 81, was passed, against which the following protest was entered. The subject was debated with great warmth in the House of Commons. See Hansard, Third Series, vol. xiv, p. 259, &c.

1st, Because, admitting that the payment made by his Majesty's Government, subsequently to the possession and sovereignty of the Belgic provinces having passed away and been severed from the dominions of his Majesty the King of the Netherlands, might have been justified by a liberal construction of the treaty, and by the circumstances under which the separation was effected, we are of opinion that such payment was not warranted by the Act 55 George III, cap. 115, and was consequently illegal; and we think that the proposal of any legislative measure to authorise future

payments, ought to have been preceded by the introduction of a Bill of Indemnity for such violation of the law.

2ndly, Because we cannot but regard the convention entered into by his Majesty and the Emperor of Russia, on the 16th of November, 1831, and the principles on which that convention is founded, as forming part of a new system of policy by which the relations of Great Britain with Holland and Belgium are hereafter to be regulated; and we think it premature, and unfair, to call upon the House for a vote which, by implication, may be construed to sanction the adoption of a system not yet explained to us, and to approve the course of a negotiation not yet terminated; more especially, as we are still ignorant in what degree the independence and essential interests of one of the most intimate and valued allies of this country may be affected by the result.

George Gordon, Viscount **Gordon** (Earl of Aberdeen).

Ernest, Duke of **Cumberland**.

Arthur Wellesley, Duke of **Wellington**.

James St. Clair **Erskine**, Earl of **Rosslyn**.

Henry Clinton Sydney Smith, Lord **Penshurst** (Viscount **Strangford**).

John Thomas Freeman Mitford, Lord **Redesdale**.

## DCLXXXII.

FEBRUARY 5, 1833.

During the War of Independence in Belgium, the five Great Powers were invited to confer on the state of affairs in the Low Countries. As it was obvious that the reunion of Belgium and Holland was impossible, the Government, in conjunction with the other Powers, gave guarantees for the independence of the said kingdom, and acknowledged Leopold as King. As the Dutch had occupied Antwerp and closed the Scheldt, they were informed that the Powers would not consent that Belgium should be excluded from this river; that a convention had been signed, and that coercion would be used if necessary. The result of this was that Antwerp was captured. Allusion was made to the facts in the Speech from the Throne, and papers were laid before the House, Lord Grey defending the policy of the Government. The debate on the Speech is given in Hansard, Third Series, vol. xv, p. 90. The following protest is entered.

Because, in humbly thanking his Majesty for the papers on the affairs of Holland and Belgium, which he has given directions should be laid before this House, we feel it to be our duty, at the same time, to express our regret that his Majesty should have

found himself compelled, in conjunction with the King of the French, to adopt measures which have led to the attack and destruction of the citadel of Antwerp, and to the capture of the Dutch garrison as prisoners of war.

We are not informed that any insult has been offered by the Government of the Netherlands to the Crown and dignity of his Majesty; that any treaty or engagement has been violated, or that any of his Majesty's subjects have been injured or oppressed: we cannot, therefore, but deeply lament that his Majesty should have been advised to co-operate in the execution of measures directed, as we think, against the honour and independence of a faithful and unoffending ally, which are compatible only with a state of actual hostility, and which, as it seems to us, are at variance with the principles of justice and of all public law.

Ernest, Duke of **Cumberland**.

George Gordon, Viscount **Gordon** (Earl of Aberdeen).

William Frederic, Duke of **Gloucester**.

George Kenyon, Lord **Kenyon**.

Henry Clinton Sydney Smith, Lord **Penshurst** (Viscount Strangford).

John Rolle, Lord **Rolle**.

James Walter Grimston, Earl of **Verulam**.

Henry Bathurst, Earl **Bathurst**.

Francis Almeric Spencer, Lord **Churchill**.

William Draper Best, Lord **Wynford**.

James St. Clair Erskine, Earl of **Rosslyn**.

William Carr Beresford, Viscount **Beresford**.

Charles Stuart, Lord **Stuart de Rothesay**.

Dunbar James Douglas, Earl of **Selkirk**.

Edward Henry Pery, Earl of **Limerick**.

## DCLXXXIII.

JUNE 5, 1833.

Among the Acts of this Session was a Bill for constructing a railway from Swannington to Worthington in the county of Leicester. Lord Wharncliffe moved the rejection of the Bill, but it was carried.

He then entered the following.

Because the Bill authorises the making a railway over and through certain lands against the consent of the lessee thereof, and in spite of his opposition thereto, such lands being held by him under a charity, the Master of which is a consenting party

to the Bill, by lease for three lives, the eldest of which is under twenty-four years, and the coal under the same being also held by him by lease, for the term of his own life, without securing any compensation or way-leave rent to such lessee.

Because the list of subscribers to the proposed undertaking, with very few exceptions, consists of persons whose estates and mineral properties are avowedly so situated with reference to those lands as to make a passage over them for the space of one-fourth or thereabouts of the whole length of the proposed railway in the highest degree advantageous to such persons, and more especially to one of those persons, who, in his own name, or in those of others connected with or dependent upon him, is a subscriber for more than one-third of the whole sum subscribed.

Because the witnesses produced before the Committee of the Bill for the purpose of supporting the allegations of the preamble, and of proving that the making of the proposed railway would be useful and beneficial to the public, are, all of them, directly and materially interested in the establishment of the proposed railway, either as owners or lessees, or as agents to owners or lessees of coals or lime to be conveyed along it, or as holders of shares of an existing railway of which this will be a continuation, and the profits upon which will be greatly increased in case this Bill passes into a law.

Because it does not appear that there is any sufficient public or national object connected with the proposed railway to justify such an exercise of the legislative power of Parliament.

Because the invariable practice of the House of Lords has hitherto been carefully to protect private rights and properties from being overborne and sacrificed, except upon clear and satisfactory proof of a paramount public or national benefit, with which such rights or properties were likely to interfere; and this is the first instance in which they have been so dealt with upon light and insufficient grounds, which may with reason be suspected of having been put forward to assist the private objects of individuals; and the passing of this Bill will therefore furnish a precedent of the most dangerous character.

James Archibald Stuart Wortley Mackenzie, Lord Wharncliffe.

## DCLXXXIV.

JUNE 25, 1833.

The scheme which the Ministry had planned for the abolition of slavery in the possessions of Great Britain was stated to the House of Lords on this day. The Earl of Ripon brought forward five resolutions,—the first, abolishing the practice; second, enfranchising at once all under six years of age; third, apprenticing the freed men for a period; fourth, granting £20,000,000 compensation; and fifth, establishing a stipendiary magistracy and providing, on liberal and comprehensive principles, for the religious and moral education of the Negro population. The debate on the subject is in Hansard, Third Series, vol. xviii, p. 1163. All the resolutions were agreed to, but the Duke of Wellington moved the omission of the words ‘on liberal and comprehensive principles.’ This was negatived, and the following resolution entered.

1st, Because it must be supposed that any system of moral and religious education proposed by his Majesty’s Government, must be founded upon principles sufficiently liberal and comprehensive to ensure the improvement and permanent welfare of the Negro population.

2ndly, Because the insertion of the words ‘upon liberal and comprehensive principles’ in the fifth resolution, which words were not in the resolution when first proposed to Parliament, is calculated to create a feeling in the colonies that it is intended to employ in the religious and moral education of the Negro population classes of persons whom the proprietors and other free inhabitants of the colonies regard with apprehension and distrust, and of whose conduct they think that they have reason to complain.

3rdly, Because such feeling is calculated to prevent the successful attainment of the object of the first resolution, which depends upon the consent of the Colonial Legislatures; and upon the cordial co-operation and assistance of the proprietors and colonists at large in the measures intended to be adopted.

Arthur Wellesley, Duke of Wellington.

James St. Clair Erskine, Earl of Rosslyn.

Ernest, Duke of Cumberland.

Thomas Hamilton, Lord Melros (Earl of Haddington).

George Kenyon, Lord Kenyon.

James Brownlow William Gascoyne Cecil, Marquis of Salisbury.

James George Stopford, Lord Saltersford (Earl of Courtoun).

George Gordon, Viscount Gordon (Earl of Aberdeen).

John Jeffreys Pratt, Marquis Camden.

Edward Law, Lord **Ellenborough**.  
William Legge, Earl of **Dartmouth**.  
John Cust, Earl **Brownlow**.  
Thomas Wallace, Lord **Wallace**.  
Henry Clinton Sydney Smith, Lord **Penshurst** (Viscount Strangford).  
Charles William Vane Stewart, Earl **Vane** (Marquis of Londonderry).  
John William Montagu, Earl of **Sandwich**.  
Thomas Robert Hay Drummond, Lord **Hay** (Earl of Kinnoull).

## DCLXXXV, DCLXXXVI.

JULY 19, 1833.

By 3 and 4 William IV, cap. 37, firstfruits were abolished in Ireland, and an annual tax was substituted in lieu thereof, and certain bishoprics were suppressed, the revenue of which was thenceforward to be devoted to the building, rebuilding, and repairing of churches, and the augmentation of small livings. Ten bishoprics were suppressed by the Act. The second reading of the Bill was moved by Lord Grey on the 17th of July. (Hansard, Third Series, vol. xix, p. 725.) The Bill was read a second time by 157 to 98. The following protests were entered.

1st, Because without any other ground but that of vague expediency, without any previous communication, without the advice and consent of our bishops and clergy in convocation assembled, we have been called upon to give our assent to this Bill, which directly destroys ten bishoprics connected with our Established Church in Ireland, virtually extinguishes those Protestant livings where divine service has not been performed during the last three years, without the remotest reference to those causes which have led in many, very many, instances to the suspension of the religious duties attached to them, namely, the bitter and cruel persecutions which, during that period, have been carried on, through the instrumentality of Popish priests and demagogues, against the Established Church in that part of our empire; which persecutions have been accompanied, not only with the destruction of the property, but also of the lives of many of our Protestant clergy.

2ndly, That as the tendency of this Bill will be to weaken the spiritual interests of the Protestant religion in Ireland, and therefore in direct opposition to the letter and spirit of the coronation oath, it is an insult on the part of this House to allow it to be submitted to our Sovereign for his consideration.

3rdly, That as Christian legislators we are bound to refuse our

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consent to this Bill, the object of which is to reduce our Protestant Church Establishment in Ireland, which it is our duty to endeavour to extend in that ignorant and benighted part of our empire; looking to that Church as the surest and best means of spreading the light of the Gospel amongst its unhappy peasantry, and of bursting those chains of error and superstition by which they are at present bound by the intolerant and bigoted priesthood of the Church of Rome, and of establishing that tranquillity and social order in that hitherto distracted country, which, through the unerring Word of God, is promised to accompany the dissemination of sound scriptural truth.

George William Finch Hatton, Earl of Winchilsea and Nottingham.

George Kenyon, Lord Kenyon.

Ernest, Duke of Cumberland.

Horatio Walpole, Earl of Orford.

George Murray, Bishop of Rochester.

1st, Because the repeal of the Church Cess, without any other provision for its necessary purposes than a partial charge on ecclesiastical property only, is calculated, not only to establish in Ireland the principle that the service of the Established Church is not entitled to receive any support from the State, but to introduce the same false and pernicious opinion into the other parts of the United Kingdom.

2ndly, Because the tax intended to be imposed on ecclesiastical benefices as a substitute for the payment of firstfruits is excessive, in proportion to the charge from which the clergy will be relieved, burdensome and oppressive in its amount, especially in the case of the more valuable benefices, and by the adoption of a progressive scale of taxation encourages the project of a general equalization of property.

3rdly, Because the proposal to invest certain commissioners, of whom a large proportion may be laymen, and a great majority is to be appointed by and removable at the pleasure of the Crown, with extensive powers over the whole property of the Church in Ireland, is, in principle, violent and arbitrary; the authority to be given to the commissioners oppressive and inquisitorial, and the influence they will possess, both over the clergy and the tenants of Church lands, highly dangerous and unconstitutional.



4thly, Because the said Commissioners will supersede the functions of the Board of Firstfruits, by which more than one-third of the benefices of Ireland has, since the Union, been provided with churches and will, under the 117th clause, have the power of stopping the presentation to a considerable number of livings, and, therefore, may not only prevent the increase of Protestant places of worship, but permanently deprive many parishes of the benefit of a minister.

5thly, Because the proposed reduction of the number of bishops in Ireland is not only highly injurious to the influence and authority of the Established Church, which, from the peculiar circumstances of Ireland, more especially requires support, but is in direct violation of the Treaty of Union, and endangers the stability of the Union by the precedent of a breach of its provisions.

6thly, Because these dangerous and alarming infringements of long-established rights and property will be so far from satisfying those who aim at still greater changes, that they will only stimulate the desire for and facilitate the introduction of yet more fatal innovations.

Nicholas Vansittart, Lord **Bexley**.

George Kenyon, Lord **Kenyon**.

William Draper Best, Lord **Wynford**.

Charles Abbot, Lord **Colchester**.

Ernest, Duke of **Cumberland**.

Horatio Walpole, Earl of **Orford**.

Percy Clinton Sydney Smith, Lord **Penshurst** (Viscount **Strangford**), for the fifth and sixth reasons.

George Murray, Bishop of **Rochester**.

## DCLXXXVII, DCLXXXVIII.

JULY 22, 1833.

Peter Thellusson, by will dated the 2nd of April, 1796, devised the greater part of his estates, real and personal, by vesting them in the hands of certain trustees, who should accumulate and invest the rents and profits of such estates during the lives of his three sons and grandson, and their issue, for the benefit of the three representatives of his three sons after the decease of all his descendants living at the time of his death, with cross remainders to such representatives. Thellusson died on the 27th of July, 1797. His eldest son was created Lord Rendlesham. It was reckoned that the accumulations of this extraordinary will would amount to about £32,000,000 before the process of accumulation ceased. By decree of Chancery of the 19th of February, 1801, the will was

established, and the trustees proceeded to undertake their trust, similar wills being prohibited by 39 and 40 George III, cap. 98. Meanwhile the grandsons of the testator were very inadequately provided for, and in 1833, a private Act was obtained demising these estates for fifty years to Lord Rendlesham at a rent of £11,500 a year, to be paid into Chancery. The Act received the royal assent on the 14th of August, 1833, and virtually defeated the purpose of Thellusson's will. The Act was read a third time on the 22nd of July, and provoked the following protests.

1st, Because this Bill has been introduced into the House without a due observance of the standing orders of the House.

2ndly, Because this Bill operates as a revocation in many respects of a testator's will, made in the exercise of powers unquestionably vested in him by the laws in force at the time he executed it, and which this House, in the exercise of its judicial functions, had solemnly adjudged to have been a legal and valid testament, and which will, as such, had also been established, and the trusts created by it directed to be carried into execution, by the solemn judgment of the Court of Chancery.

3rdly, Because the Act of the 39th and 40th years of his Majesty King George the Third, restraining future trusts for accumulation similar to the trusts contained in the will of Peter Thellusson, and by which Act such accumulations are restrained to a period of twenty-one years, so far from authorizing the passing of this Bill, is a direct authority to shew that Parliament would not, and ought not to pass any Bill of the same nature, affecting the duration of trusts created before the passing of that Act.

4thly, Because I apprehend that there are now in the course of execution many trusts created by wills made antecedently to the passing of the Act of the 39th and 40th of George the Third, the further execution of which the precedent established by this Bill may tend to destroy, though the legality of creating the trusts created by such wills, or of the execution of such trusts, has never been questioned, but, on the contrary, has been universally acknowledged by the Legislature, and such trusts have been in a course of execution under the authority of all courts of justice having cognizance of such testamentary dispositions of property.

5thly, Because the allegation, that 'whereas the appointment being committed by the testator to the heirs, executors, or administrators of a surviving trustee, it thereby appears that the testator

did not repose any personal confidence in the future trustees appointed in the manner prescribed by this testator,' is an allegation which would affect, and, if acted upon, would destroy numerous trusts admitted to be valid, and constantly acted upon as valid by all courts of justice; and because it cannot be alledged that this testator placed any confidence in the wisdom of Parliament, if it should assume the power of altering the legal provisions of his will, or placed any personal confidence as to the management of his property in those, to whom this Bill intrusts that management; and because the testator did, in fact, repose so much confidence in the trustees named by him as to give to them, or to their heirs, executors, and administrators, the power to nominate and appoint new trustees, and those trustees from whom the management is to be taken by this Bill have been nominated and appointed in conformity with such will of the testator; and it is a direct contravention of that will to substitute a management by one of the family for the management by those trustees.

6thly, Because it does not appear to me, that even if the provisions enacted by this Bill were improvements upon those created by the will of the testator, that we should be justified in making, in effect, a will for a testator, which he would not himself make, as to the disposal and management of his property after his death, and which the law of the land authorised him to refuse to make.

7thly, Because I see much danger in giving weight to the argument used in debate, by which it is contended, that although this Act may be established as a precedent for altering some of the provisions of a will of a testator duly made by him, and which he was by law duly authorised to make, yet this House may exercise its discretion in all future cases to decide whether alterations proposed in the valid wills of testators should or should not be affected by Acts of Parliament containing provisions, not only not authorized by the testators themselves, but, in fact, destroying such as those testators had legally made; inasmuch as it appears to me, that the tendency and effect of such reasoning is to render this House, not only judges, as we now are, whether a testator's will is valid according to existing law, but also to declare that, admitting such will to be valid, we may, by Act of Parliament, change the lawful dispositions of testators into others which this House may

think wiser or more discreet; thus assuming a power with which the testator has not entrusted us.

John Scott, Earl of Eldon.

Cropley Ashley Cooper, Earl of Shaftesbury.

William Murray, Earl of Mansfield.

George Kenyon, Lord Kenyon.

James Archibald Stuart Wortley Mackenzie, Lord Wharncliffe.

Montagu Bertie, Earl of Abingdon.

Nicholas Vansittart, Lord Bexley.

1st, Because we think that the Legislature in every instance of interference with the controul or management of private property ought to proceed upon some general principles, and according to known and established forms, and that a departure from those principles and those forms, in order to vary the rights of parties under a will, or to confer a benefit upon particular persons, must necessarily tend to shake the confidence that has hitherto been reposed in the justice and impartiality of Parliament.

2ndly, Because the object of the present Bill is to give an interest in the testator's property to a person to whom he never intended to give it; and the effect of the Bill is to give that interest at the expense of those parties who are the objects of the testator's bounty, inasmuch as the Bill limits the extent of future accumulation to the sum fixed as a rent to be paid by Lord Rendlesham, and thereby in effect perpetuates the full amount of those charges and expences of which the petitioners for the Bill profess to complain, whilst, also, the course of management now proposed, and to be carried into effect under the controul of the Court of Chancery, will be in some respects more costly than that which is superseded by the Bill.

3rdly, Because we think that if the conduct of the trustees has been improper, (of which, however, no evidence has been adduced,) or has led to expences improperly large, the Court of Chancery has powers amply sufficient to correct that conduct, and to controul those expences, and the petitioners for this Bill were the proper parties to make the complaint in that court; and if, on the other hand, any charges that can be justly complained of have resulted from the ordinary practice and course of proceeding of the Court, it became the duty of the Legislature to reform such practice generally, rather than to enact a partial law giving relief in one

particular case only, in which case, from the magnitude of the property, the burthen must be comparatively light, whilst the evil (if any) is allowed to operate with full force in the numerous other cases in which property falls to be administered under the Court of Chancery.

4thly, Because we feel convinced that the passing of this Bill will establish a very dangerous precedent, and we think it a great mistake to suppose that any peculiarity of the circumstances of this case will prevent this danger; for although the precise extent of accumulation provided for by Mr. Thellusson's will may not occur again, yet we cannot conceive that mere length of accumulation can afford any solid or safe ground of distinction: and as it must frequently happen that large properties are necessarily kept under the management of the Court of Chancery during a long course of years, and that capricious and unjust wills are frequently made, by which the family of a testator are left in circumstances of great and undeserved hardship, we apprehend that in every such case the Thellusson Bill will afford a precedent for superseding the trustees appointed under the directions of the will, and for relaxing and altering the rules both of this House and of the Court of Chancery, in order to secure some benefit to the disappointed heirs.

Cropley Ashley Cooper, Earl of Shaftesbury.

John Scott, Earl of Eldon.

William Murray, Earl of Mansfield.

George Kenyon, Lord Kenyon.

James Archibald Stuart Wortley Mackenzie, Lord Wharncliffe.

Montague Bertie, Earl of Abingdon.

Nicholas Vansittart, Lord Bexley.

## DCLXXXIX—DCXCII.

JULY 30, 1833.

The third reading of the Irish Church Temporalities Bill carried by 135 to 81, elicited the following protests.

1st, Because I consider the tax proposed to be levied upon the tithes and Church lands of the clergy alone, for the purposes stated in the preamble of this Bill, to be partial and unjust in principle, and inadequate to the objects proposed.

2ndly, Because a more efficient tax for those purposes might with equal ease and more justice be levied on the entire tithes of

the whole Kingdom of Ireland, instead of being exclusively charged upon a body of men who, from their character, office, and circumstances, have peculiar claims to indulgence, and who, although proposed to be taxed in their ecclesiastical capacity, are in that capacity unrepresented in the Commons' House of Parliament.

3rdly, Because I consider assent given to a tax thus imposed, not equally and generally upon a particular description of property, but in the invidious scale of the Schedule, exclusively upon the clergy, to be calculated rather to excite feelings of evil triumph in the common enemies of Church and Peerage, than to pacify them by concession to their demands.

Henry Hall Gage, Lord Gage (Viscount Gage).

1st, Because the Bill imposes upon the clergy of Ireland, already defrauded of their rightful property, the new charge of the Church Cess, heretofore borne by the land—which is at once a mockery and a wrong.

2ndly, Because this charge will absorb so much of the fund to be provided by taxing the clergy, that for many years no part of that fund, and at no time any considerable part of it, will be applicable to the proposed improvement of small livings—so that to injustice is added delusion.

3rdly, Because the Bill suppresses ten bishoprics, not for purposes of reform, but for purposes of finance—in order to supply the deficiency created by an act of injustice.

4thly, Because the Bill, affording an unworthy triumph to the Roman Catholics over the law they have violated, and the clergy they have persecuted, encourages future aggressions, while failing in its professed objects, by the inadequacy and fallacy of its financial provisions, it humiliates the Protestants, without contributing to the future efficiency of the Established Church.

Edward Law, Lord Ellenborough.

George Kenyon, Lord Kenyon.

Edward Henry Pery, Earl of Limerick.

John Crichton Stuart, Marquis of Bute.

George William Finch Hatton, Earl of Winchilsea and Nottingham.

William Murray, Earl of Mansfield.

John Thomas Freeman Mitford, Lord Redesdale.

Ernest, Duke of Cumberland.

Henry Hall Gage, Lord **Gage** (Viscount Gage), for third and fourth reasons.

Henry Pelham Fiennes Pelham Clinton, Duke of **Newcastle**.

Heneage Finch, Earl of **Aylesford**.

Horatio Walpole, Earl of **Orford**.

Charles William Vane Stewart, Earl **Vane** (Marquis of Londonderry).

Nicholas Vansittart, Lord **Bexley**.

George Murray, Bishop of **Rochester**.

George Thomas John Nugent, Marquis of **Westmeath**, for the third and fourth reasons.

Thomas Robert Hay Drummond, Lord **Hay** (Earl of Kinnoull).

William Draper Best, Lord **Wynford**.

Laurence Parsons, Earl of **Rosse**, for the first, second, and third reasons, and also because I consider it a violation of the Act of Union.

1st, Because his Majesty being bound in his executive and legislative capacity by the Coronation oath, to maintain and preserve inviolably the settlement of the United Church of England and Ireland, and the doctrine, worship, discipline, and government thereof, as by law established within England and Ireland, and the territories thereunto belonging, and to preserve unto the bishops and clergy of England and Ireland, and to the churches there committed to their charge, all such rights and privileges as by law do or shall appertain to them or any of them, and this Bill being a fundamental alteration of the discipline and government of the Irish Church, and directly invading the rights and privileges of its clergy, it appears to us that such Bill cannot be passed into a law with a proper observance of the Coronation oath.

2ndly, Because such Bill is opposed to the wishes and interests of the great body of the clergy in England and Ireland, whilst the people at large have not petitioned or expressed any desire for its adoption.

3rdly, Because it is contrary to all justice and equity to exempt those hitherto properly liable to the payment of the Church assessments in Ireland, and to impose such burdens arbitrarily on the impoverished Protestant clergy of that country.

4thly, Because the imposition of a tax on all parochial livings of a certain value in Ireland, interferes with the vested rights of the owners of advowsons, by lessening the value of that species of

property which they had acquired without such diminution of value.

5thly, Because the abolition of ten bishoprics in Ireland appears to us an act of spoliation, and to afford a fatal precedent for the future destruction of the whole Protestant hierarchy in that country.

6thly, Because the Bill in its principles and enactments appears to us as tending to the advance of Roman Catholic, and to weaken the Protestant religion in Ireland, both in a temporal and spiritual point of view; and while it prepares the way for future acts of injustice, hardship, and oppression toward the Protestant clergy there, it gives to the enemies of the Reformed Church increased strength to degrade and impoverish its ministers, to impair its efficiency, and finally to establish the Roman Catholic religion in Ireland, predominant in wealth and influence.

Ernest, Duke of Cumberland.

Henry Pelham Fiennes Pelham Clinton, Duke of Newcastle.

George Kenyon, Lord Kenyon.

Nicholas Vansittart, Lord Bexley.

George William Finch Hatton, Earl of Winchilsea and Nottingham.

Charles William Vane Stewart, Earl Vane (Marquis of Londonderry).

John Thomas Freeman Mitford, Lord Redesdale.

John Reginald Beauchamp Pyndar, Earl Beauchamp.

William Draper Best, Lord Wynford, for the first, second, third, fourth, and fifth reasons.

Laurence Parsons, Earl of Rosse.

1st, Because it appears to us that everything that can be objectionable and impolitic in a public measure is to be found in this Bill.

2ndly, Because it appears to be a most wanton aggression upon the Established Church, since at no period of our history has the clergy of Ireland been more distinguished for its exemplary zeal, learning, and piety, than at the present time; whilst the laborious duties of the holy office are infinitely increased, the means are correspondingly diminished of making head against the power and artifice of popery, and the unwearied exertions of all species of dissent.

3rdly, Because by assuming to itself the right of meddling with the affairs, but most especially with the temporalities of the



Church, Parliament is investing itself with a dangerous, unjust, and most tyrannical power, subversive of all order, regardless of the rights of property, and trampling upon the sacred privileges of a venerated body, merely because it is weak, persecuted, and defenceless.

4thly, Because the fatal effects of such a guilty measure must be too palpable not to be perceived, bringing with it the overthrow of the Church, contempt of religion, the triumph of popery and dissent, and the frightful reign of anarchy and confusion.

5thly, Because the framers and supporters of this Bill are considered to be amongst those who are inimical to that Church, which they speciously profess to desire to benefit, but which in fact they seek to sacrifice or destroy; by which this Protestant nation, and once Protestant State, risks the security of the purest Christian faith that ever blessed and enlightened a Christian people.

6thly, Because since the abrogation of the Test and Corporation Acts, the Roman Catholic Immunity Bill, and other enactments hostile to the Established Church, that Church is no longer what it was, regarding its alliance with and its support from the State, its defences having been weakened, and a violent inroad made upon its barriers: for this reason it was most desirable that Papists and Dissenters should not be called upon to legislate in Parliament for the affairs of the Established Church of England.

7thly, Because it would have been most wise and discreet to have avoided the possibility of witnessing an exhibition so distressing and so perilous as that of some prelates professing the Protestant faith, co-operating with Roman Catholic Peers on a Bill which involves the fate of that Church, and that faith to which they profess to belong.

Because, lastly, but not least, it must be a heinous crime and misdemeanor to place his Majesty the King in a situation (which this Bill does) to disregard and violate a sacred oath which he solemnly took at the high altar before God, and in the face of that country whose destinies, under God, he sways, and from the subjects of which his Majesty will assuredly require the observance and fulfilment of those oaths which, on their part, they freely and loyally, and without any mental reservation whatsoever, engaged

and contracted to perform. For these reasons I dissent from the third reading of this Bill.

Henry Pelham Fiennes Pelham Clinton, Duke of Newcastle.  
Ernest, Duke of Cumberland, for the second, sixth, seventh,  
and last reasons.

George Kenyon, Lord Kenyon, for the second reason.

George Thomas John Nugent, Marquis of Westmeath.

George William Finch Hatton, Earl of Winchilsea and Nottingham.

### DCXCIII, DCXCIV.

AUGUST 1, 1833.

A Bill removing the disabilities of Jews passed the House of Commons on the 22nd of July, by 189 to 52. The second reading in the Lords was moved by Lord Bexley, and opposed by the Archbishop of Canterbury (Howley); the Bill was supported by Archbishop Whately, was designated by Lord Winchilsea as a tissue of blasphemy and impiety, and was rejected by 104 to 54.

The following protests were entered.

1st, Because it appears to me irreconcilable with the rules of natural justice, and with the maxims of political wisdom, as well as repugnant to the spirit, both of the institutions under which we live and the religion which we profess, to exact, unless under the pressure of necessity and for self-preservation, any negative or positive test of a man's religious faith, either as a qualification for his serving his prince or country in a capacity purely temporal or political, or as a condition to his enjoyment of those privileges to which his birth and allegiance would otherwise entitle him. The general injustice and impolicy of all such exclusions are obvious, whatever principles of civil policy we adopt. If civil government be originally founded, as writers of great authority have contended, and as the laws past at the Revolution of 1688 seem to acknowledge, on a contract between the people and their government, it follows that all from whom allegiance and obedience are exacted are, *primâ facie*, entitled to the privileges secured by the contract as birthrights to the members of the community to which they belong. It is true that the perpetration of crimes, and even some special or peculiar circumstances, may, in particular instances, or for a season, justify the suspension of such privileges; but the burthen of proof is in all such cases thrown upon those who enforce

or maintain the exception, and not on the party who claims the benefit of the general rule. In like manner, if, according to other prevalent and more recent notions, utility alone be the principle from which the reciprocal duties of princes and people or government and governed are to be deduced, it is equally clear that the application of that principle will confer on all from whom allegiance or obedience is expected, such privileges and rights as are found generally useful in ensuring the affection of the subjects to the State, unless some special or temporary circumstances should intervene to render the suspension of the said rights and privileges in the particular instance expedient and necessary: but the burthen of proof in this, as in the other hypothesis, is thrown upon those who enforce an exception, not on those who solicit the benefit of a general rule. That the genius of our constitution is to admit all from whom it exacts the duties of allegiance to the full enjoyment of political rights, and especially that of an eligibility to offices and trusts of political power, is an axiom abundantly sanctioned by history and authority, and practically manifested by this striking fact, that no subject of the British Crown is or has been incapacitated from holding such offices or trusts except by the operation of positive statutes, and that the common law of the land, which, in the language of the great Lord Mansfield, never fails 'to work itself pure by rules drawn from the fountain of justice,' would, if unrestrained by statute, secure to every free-born subject within the realm the entire right of serving his prince and country in any office or trust, purely political and temporal, to which the favour of his sovereign might legally appoint, or the confidence of his fellow subjects duly elect him. This view of the constitutional right of the natural-born subjects of England to eligibility is repeatedly confirmed by Acts and declarations in Parliament, and especially in the conferences which took place between the two Houses in 1702, upon a difference relating to the Bill of occasional conformity then pending in Parliament: upon that occasion the Lords solemnly recorded their opinion, 'that an Englishman cannot be reduced to a more unhappy condition than to be put by law under an incapacity to serve his prince and country, and therefore nothing but a crime of the most detestable nature ought to put him under such a disability:' and the Commons, though they deny the conclusion drawn by their Lordships from these premises, yet distinctly admit

that an Englishman 'is indeed reduced to a very unhappy condition who is made incapable of serving his prince and country.' That the spirit of a religion which inculcates universal charity, and teaches us to love our neighbours, and do unto others as we would that others should do unto us, must be averse to all exclusion of our fellow subjects from the benefits generally extended to their countrymen, except on the proof of necessity, will not I presume be disputed, and might be enforced by sundry texts and parables drawn from the Holy Scriptures themselves, as well as by quotations from the earliest and most approved fathers of the Church.

2ndly, Because a Jew born within the King's allegiance is to all intents and purposes an Englishman, and therefore entitled to all the rights of a natural-born subject, save and except such as may by the operation of statutes actually in force be withheld or denied him. The legal designation of a natural-born subject sufficiently indicates that birth, not parentage or religious faith, entitles him to the privileges appertaining thereunto. The notion founded on a passage of Lord Coke, that Jews, though born in England, are on the footing of alien enemies or stigmatized and infamous persons, has been ousted by common sense, reason and practice, by dicta solemnly pronounced from the Bench, by words in Acts of Parliaments, and by decisions in Courts of Justice. English Jews born in the allegiance of his Majesty cannot be subject to the privations and disabilities any more than they can be entitled to exclusive jurisdictions, exemptions and privileges which they are said to have enjoyed before the expulsion of persons professing their faith in the time of Edward I. The passage of Lord Coke, which was written while the law of banishment, and no other, relating to the Jews, was in force, could not be meant to apply to Jews born in England, for in the persuasion of the writer there were then none such. It has moreover been declared, in the course of a solemn judgment in the Exchequer Chamber, (*Omychund v. Barker*), by Chief Justice Willes, to be contrary to religion, sense and humanity; and in that opinion, not only the Solicitor General Murray, but the Judges there present, including Chief Baron Parker and Lord Chancellor Hardwicke, seem to have concurred. English Jews have been recognized and described as his Majesty's subjects in more than one Statute, and by an Act of 10 Geo. I, cap. 4, they are authorized to exempt themselves from registering their real and

personal property, by taking the oath of abjuration without the words 'upon the true faith of a Christian'; a provision of indulgence and relief which not only recognizes them as natural-born subjects, but manifestly implies their right of holding real property. That right, if never solemnly adjudged, because never regularly disputed, has been virtually admitted by various judicial proceedings, where the sale and purchase of lands by Jews have been brought collaterally before the observation of the courts.

3rdly, Because the words in the oath of abjuration which render Jews scrupulous of taking it are not in the substantive part of the oath, and were not introduced with a view of confining the benefits arising from taking it to Christians, or of excluding Jews from office or from Parliament: and the same words, in a declaration required by a more recent Statute to be made on the acceptance of office, were introduced into an Act which had for its object the relief of Protestant Dissenters, and not the extension of any disabilities and penalties to other classes of his Majesty's subjects. It seems, therefore, unreasonable as well as unjust, that men should be exposed by a side wind to disabilities reserved, in the language of our ancestors, for crimes of a most detestable nature, by the accidental operation of provisions directed to other purposes, and adopted without any view to that effect by the Legislature.

4thly and lastly, Because, even if reason and law did not lead me to consider all unnecessary exclusions on account of religion as acts of persecution and injustice, I should still question the generosity and wisdom of refusing to the supplications of the weak that relief from disabilities which has been recently, and on more than one occasion, accorded to the no less just but far more peremptory demands of the strong, the powerful and the numerous.

Henry Richard Fox Vassall, Lord Holland.

1st, Because the adoption of the amendment that this Bill be read this day six months, after the explanations that took place on the discussion of the motion that it be now read a second time, and upon the amendment to that motion, involves, in my opinion, the adoption of a principle by the House of Lords which I hold to be fatal to the civil and religious liberties of my country, and to the civil and religious establishments founded at any period of this

country for the maintenance and protection of those civil and religious liberties.

2ndly, Because I do not think that I am at liberty to believe, so as to act upon that belief in my legislative capacity as a Peer of Parliament, that it is my duty to protect any Christianity of an undefined nature, much less any Protestantism of an undefined nature.

3rdly, Because I do not believe that I have any right to vote for the exclusion of any subject of the King of England who by his birthright, which is the act of God, becomes entitled to British franchise, unless by some subsequent act of his own free will he commits certain acts or adopts certain principles which render his exclusion from those franchises requisite for the preservation of the civil or of the religious liberties of my country, and that I have official and legal evidence of the commission of such acts or adoption of such principles, and contumacious perseverance in them after due citation to renounce them.

4thly, Because in the instance of this Bill I had the authority of the House of Commons, which passed it and sent it up to me, that it was not injurious to the civil and religious liberties of my country that my fellow subjects should enjoy the franchises of the constitution in and to which they were born, although they subsequently had exercised their free will in the adoption of the Jewish religion, which I believe to be false, and injurious to Christianity, as I also have exercised my free will in the adoption of the Roman Catholic religion, which the majority of my fellow subjects believe to be false, and injurious to Protestantism.

5thly, Because the adoption of the amendment appears to me to cast an insidious, highly unjust and extremely mischievous aspersion upon the Crown of England, inasmuch as there is not at present any Peer of England professing the Jewish religion who would, as in the case of the Roman Catholic Peers, be restored *ipso facto* to the exercise of his hereditary rights in this House, and that consequently a rejection of this Bill by this House, after it has passed the House of Commons, seems to me to involve not only an injudicious opposition to the will of the people of England on the part of the Peers of England, but a distrust, for which no Act of his present Majesty has afforded the slightest pretext, of the attachment of the Crown to the civil and religious liberties of this

country, or to those civil or religious establishments which he is sworn to maintain in defence of those liberties.

6thly, Because, though I am not convinced that the civil and religious liberties of this country are essentially connected with undefined Protestantism, I am thoroughly and deeply convinced that they are essentially connected with an adherence to the Christian religion as defined in Scripture in these words of the Divine Author of that one, true and holy religion; 'All things whatsoever ye would that men should do to you, do ye even so to them; for this is the law and the prophets.' *S. Matt.* ch. 7, ver. 12. 'Hear, O Israel; the Lord our God is one Lord: and thou shalt love the Lord thy God with all thy heart, and with all thy soul, and with all thy mind, and with all thy strength; this is the first commandment: and the second is like, namely this, thou shalt love thy neighbour as thyself: there is none other commandment greater than these.' *S. Mark*, ch. 12, ver. 29-31. It is, therefore, only inasmuch as any description of Christians adhere to the Christianity of the Established Church of England, not inasmuch as they adhere or profess themselves to adhere to any peculiar tenets of their own, that I hold them competent to the duty of legislators in the Christian and parliamentary constitution of my country.

Hugh Charles Clifford, Lord Clifford of Chudleigh.

## DCXCV.

AUGUST 13, 1833.

By 3 and 4 William IV, cap. 76, the narrow system on which magistrates were elected in the royal burghs of Scotland was altered. The debate on the second reading is to be found in Hansard, Third Series, vol. xx, p. 563. Lord Haddington moved that the Bill be read that day six months, but his motion was negatived without a division. He then inserted the following protest.

1st, Because, while the preamble of the Bill purports to restore the antient free constitutions of the burghs, the enacting clauses establish a system totally different from any that ever existed in those communities.

2ndly, Because the transference of the right of voting to the ten-pound householders alone is a manifest violation of those rights which the antient law of Scotland recognized in the burgesses, into

whose hands, a simple repeal of the Act of 1469, would have thrown that power which is now to be conferred on the Parliamentary constituency.

3rdly, Because, in order to abolish the system of self-election, it was not necessary to have recourse to this extensive innovation.

4thly, Because the power to elect the managers of the common good of the burghs, and of many of the charities therein, is conferred on persons having no right or interest in either, instead of having been bestowed on the burghesses, who are the parties legally interested in both.

5thly, Because the Bill has been brought forward in manifest ignorance of many most important matters, an accurate knowledge of which must be necessary in order to enable Parliament to determine, in a final and satisfactory manner, on the mode in which the municipal councils of the royal burghs in Scotland ought to be chosen. This is virtually admitted by the framers of the Bill, who have advised his Majesty to issue a commission, with most extensive powers, embracing every matter connected with those communities, and especially the mode of election which ought to be adopted therein; and it would have been more consistent with justice and with common sense, and in every respect more convenient as well as more rational, to have founded legislation upon enquiry, instead of deciding first and enquiring afterwards.

6thly, Because this Bill, recklessly invading chartered rights, and injuriously affecting long-established interests, on the gratuitous assumption that some such enactment is called for by popular feeling, forms a dangerous precedent, and is justified on principles inconsistent with the permanence of chartered rights throughout the Empire, and adverse to the true interests of the people.

Thomas Hamilton, Lord Melros (Earl of Haddington).

## DCXCVI.

AUGUST 19, 1833.

The Act 3 and 4 William IV, cap. 85, 'For effecting an arrangement with the East India Company, and for the better government of his Majesty's Indian Territories Bill' (30th of April, 1854), makes considerable changes in the Charter as it existed up to that date. The third reading was taken on the 19th of August, and the following protest inserted.



1st, Because the East India Company in their capacity of Governors of India are deprived by this Bill of the financial resources which they might still have derived from their trade in their capacity of a joint stock company under their charter ; particularly if relieved from certain of the obligations in carrying on their commercial operations imposed upon them by law.

2ndly, Because these financial resources, amounting for the last twenty years to an annual sum which has paid the dividends upon the Company's capital stock, £630,000 a year, and the interest upon the Company's bond debt, £88,000 a year, have moreover enabled the East India Company to make advances from commerce to territory amounting to a sum between three and five millions sterling, according to the settlement of the rate of exchange at which the transfers have been made ; and their continued existence appears to be absolutely necessary for carrying on the government of India, as, notwithstanding the efforts made in India in the last five or six years to retrench expence, a surplus of expenditure over income to a considerable amount still remains to be provided for ; including in that expenditure a sum amounting, previous to the renewal of the charter, to not less than £1,804,000 per annum, (excluding the expence of St. Helena,) for expenditure in England on account of territory.

3rdly, Because an addition must be made to this expenditure in England on account of territory amounting, on account of dividends, to £630,000, on account of interest on bond debt, to £88,000, on account of pensions already granted to commercial servants, £56,000 ; making the total of actual expenditure in England, on account of territory, £2,578,000 per annum.

4thly, Because the expenditure in England on account of territory must be farther augmented by a provision for those commercial servants and labourers to be put out of employment by the cessation of the Company's trade, to the amount of a sum estimated at £200,000 per annum.

5thly, Because this sum of £2,778,000 must be remitted annually from India at a charge of not less for exchange than ten per cent. ; thus adding £277,000 to the home charge upon the Indian revenues.

6thly, Because the reduction of charge and expenditure in India by the application of the whole of the East India Company's com-

mercial assets to the payment of debt secured upon the territorial revenues, cannot be calculated to produce more than the sum of £574,000 per annum in India; thus leaving a balance of surplus of charge in England by this arrangement, over saving of expenditure on account of interest in India, amounting to £667,000 per annum.

7thly, Because this arrangement will increase much the difficulties and expence which have been at times found to exist in making remittances from India to England; first, by the increased amount of expenditure in England, and of remittance to defray it; secondly, by the discontinuance of the commerce of the East India Company.

8thly, Because the arrangement made by this Bill is not less injurious to the public revenue than it is to the finances of the East India Company in their capacity of administrators of the Government of the British dominions in Hindostan. A revenue upon tea, at this moment amounting to £3,000,000 sterling per annum, has hitherto been collected at the expence of ten thousand pounds. If the Company had been allowed to trade as a joint stock company, the Government duties at the least on the amount of the continued import of tea by the East India Company might have been collected in the same manner, and at the same rate of expence.

9thly, Because the numerous individuals who have been employed by the East India Company in the construction, repair, and fitting out of their ships; in supplying them with various articles of manufacture and produce for their commerce, as well in the river Thames as in London and in the country, have been deprived of this employment for their industry, ingenuity, and capital; for which no compensation can be given to them.

10thly, Because the private traders resorting to China upon the opening of the trade will be deprived of the advice and influence of the East India Company's servants in the management of their transactions with the Chinese merchants and authorities.

11thly, Because the arrangement which puts an end to the commerce of the East India Company deprives them of the political influence and power still remaining to them, notwithstanding recent events, which their vast establishments in the metropolis, and the magnitude and importance of their transactions, had given them.

12thly, Because this political influence and power are still farther

diminished by the enactments of the Bill which regulate the intercourse of the directors with and submission to the Board of Commissioners in all cases, and on all points submitted to the nominal government of the Company, excepting certain cases of patronage ; notwithstanding that the East India Company have been told that the arrangement was dictated by a desire to inspire them with an increased interest in the prosperity of the Indian Empire and its revenues, by placing their dividends as a charge upon them.

13thly, Because it is impossible for the East India Company, thus shorn of its political influence and power, (and the Bill not affording a certainty that Parliament will have a knowledge of the discussions which may arise between the Court of Directors and the Board of Commissioners,) to carry on with advantage, in independence or with honour, that branch of the Government of India which is transacted in England ; and still less to inspire with respect their servants and those submitted to their Government abroad.

14thly, Because the object of the Bill appears to be the creation of a new office, that of Governor-General in Council of India ; and by conferring upon the holder of it unusual patronage and power to vest in him the Government of the British territories in Hindostan, rather than in the East India Company and the authorities at home.

15thly, Because the enactments of the Bill, although depriving the East India Company of its assets, do not provide for their specific application to the payment of debts, for which provision had been made by former Acts of Parliament. The creditors of the East India Company, on account of loans of their property on the security of the territorial revenues and of other assets of the Company, depend for payment, not, as heretofore, upon the enactments of Parliament, but upon the good will of the Court of Directors, under the controul of the Board of Commissioners, in carrying into execution the provisions of the 16th clause of the Bill, which states that 'The revenues of said territories, and all monies which shall belong to the said Company on the 22nd of April, 1834, and all monies which shall be thereafter received by the said Company from and in respect of the property and rights vested in them in trust as aforesaid, shall be applied to the service of the Government of the said territories, and in defraying all charges and

payments by this Act created or confirmed or directed to be made respectively, in such order as the said Court of Directors, under the controul of the said Board, shall from time to time direct; any thing in any other Act or Acts contained to the contrary notwithstanding.'

16thly, Because the Bill lays the ground for the interference of the Government of India unnecessarily in the domestic affairs, the manners, customs, and religion of the native population.

17thly, Because it permits the unrestrained resort of Europeans to India.

Arthur Wellesley, Duke of Wellington.

Ernest, Duke of Cumberland.

William Carr Beresford, Viscount Beresford.

Percy Clinton Sydney Smith, Lord Penshurst (Viscount Strangford).

James Andrew John Laurence Charles Drummond, Viscount Strathallan.

James Brownlow William Gascoyne Cecil, Marquis of Salisbury.

James St. Clair Erskine, Earl of Rosslyn.

## DCXCVII.

AUGUST 20, 1833.

The Abolition of Slavery Bill was read a third time on this day and passed (3 and 4 William IV, cap. 73). The following protest was entered.

1st, Because it is attempted by this Bill to emancipate a nation of slaves; not prepared by a previous course of education, of religious instruction, or of training to habits of industry, or of social intercourse, for the position in which they will be placed in society.

2ndly, Because the value, as possessions of the Crown of Great Britain, of the colonies in which those negroes are located, as well as the value of their estates to the proprietors and colonists, depends upon the labour of the negroes to obtain the valuable produce of the soil, sugar, whether as slaves, as apprentices, or as free labourers for hire.

3rdly, Because the experience of all times and of all nations, particularly that of modern times, and in our own colonies, and in St. Domingo, has proved that men uncivilized, and at liberty to labour or not as they please, will not work for hire at regular

agricultural labour in the low grounds within the tropics ; and the example of the United States, a country but thinly peopled in proportion to its extent, and fertility, and always in want of hands, has shewn that even in more temperate climates the labour of emancipated negroes could not be relied upon for the cultivation of the soil ; and that the welfare of the society, as well as that of the emancipated negroes themselves, required that they should be removed elsewhere.

4thly, Because the number of negroes in the several islands and settlements on the continent of America in which they are located is so small in proportion to the extent of the country which they occupy, and the fertility of the soil is so great, and the climate, however insalubrious and little inviting to exertion and labour, is so favourable to vegetation and the growth of all descriptions of the produce of the earth, that it cannot be expected that these emancipated slaves, thus uneducated and untrained, will be induced to work for hire.

5thly, Because upon this speculation depends the value of a capital of not less than two hundred millions sterling ; including therein the fortunes and existence in a state of independence of thousands of colonists and proprietors of estates in the colonies, the trade of the country, the employment of 250,000 tons of British shipping and of 25,000 seamen, and a revenue which produces to the Exchequer upon sugar alone not less than five millions sterling per annum.

6thly, Because the Bill, in enforcing upon the colonists the emancipation of their slaves, attains its object by enactments and measures least calculated to conciliate their feelings and interests, and those of the local legislatures, by whose influence and authority the powers of Government in the colonies must continue to be exercised.

7thly, Because, in the details of the measure, an engagement made to the proprietors of estates in the colonies has been violated ; and a resolution agreed to by both Houses of Parliament, and communicated to the colonies, has been departed from, and the period of apprenticeship altered from twelve years to six. Proprietors who have slaves of twelve years of age are under the necessity of making them apprentices as domestics or as artificers. Persons are to be appointed special magistrates for the execution of the measures

ordained by this Bill, unconnected with the colonies, not sufficient in number for the performance of the duty even of protecting the property and persons of the resident proprietors, or sufficiently paid to render them respectable or even efficient. The Colonial Legislatures are required to enact laws to carry into execution these measures, under pain of the loss by the proprietors of slaves in the colony of all participation of the compensation held out by the Bill, in case those laws should not be conformable to the model therein given to them. The compensation for loss is not in reality raised or granted, nor does the interest upon the grant accrue from the period at which the sacrifice of property is to be made for which it is stated to be intended that the compensation should be given, according to the usual practice. The Colonial Legislatures must first pass certain laws; and then Commissioners appointed under authority of the Bill are to proceed to make a distribution among nineteen colonies of the whole sum held out, according to a principle which is considered by many of the colonial proprietors to be partial and unjust. This distribution having been made, and agreed to, the detailed distribution of the compensation to each proprietor is to be made by the same Commissioners; but appeals to his Majesty in Council may be made upon the original as well as upon every other distribution by the Commissioners, each of them requiring renewed reference to the colony, and occasioning of course interminable litigation and delay; thus postponing the receipt of compensation by the proprietor of the slave for years after he will have lost the benefit of his services.

8thly, Because the extension of the Act of the 52nd George the Third, cap. 155, by the 61st clause of the Bill, to the colonies, is not necessary for the apprenticeship and emancipation of the slaves in the colonies. It is not justified by any thing that has passed, and will be considered by the Colonial Legislatures as a gratuitous injury, and a breach of their independant authority, as provided by the Acts of 1773, and respected from that time to this.

Arthur Wellesley, Duke of **Wellington**.

Edward Jervis Jervis, Viscount **St. Vincent**.

Percy Clinton Sydney Smith, Lord **Penshurst** (Viscount Strangford).

William Draper Best, Lord **Wynford**.

## DCXCVIII.

AUGUST 26, 1833.

An attempt was made in the last stage of the Bank Charter Bill, to introduce a clause affirming the monopoly of Joint Stock Banking in the Bank of England. The amendment was negatived without a division, and the following protest was entered.

1st, Because no subject who is in possession of a valuable privilege ought to be deprived of it except by the judgment of a court of justice, after a patient hearing of his case, and by an impartial decision upon it, uninfluenced by party or popular feeling. The taking from any one a right or privilege by a declaratory law, supported only by an opinion of the law officers of the Crown (which opinion has never been laid before this House), and without the authority of the sanction of the Judges, is an arbitrary and oppressive proceeding, and contrary to the uniform practice of Parliament.

2ndly, Because the clause which it was proposed to substitute for the declaratory clause contained in this Bill, would have afforded all the protection to the public which they have ever had, and have prevented the Bank from enjoying any exclusive privilege which it does not at present legally possess. The clause in the Bill takes from the Bank a privilege it has always enjoyed, and which privilege, with a full knowledge of all the circumstances of the case, it was agreed by the promoters of the Bill and the Governor and Directors to continue to the Bank. The altering of this bargain exposes the proceedings of the Legislature to the imputation of a breach of faith.

3rdly, Because, although the preamble of the declaratory clause itself expressly states that it is the intention of the Legislature that the Governor and Company of the Bank of England shall continue to hold and enjoy all the exclusive privileges of banking given them by any Act of Parliament, and although by the letter and spirit of all the Statutes relating to that Corporation the exclusive privilege of banking, which includes the receiving of deposits as well as the issuing of bills or notes, is secured to the Governor and Company, so that no corporation or company consisting of more than six partners can carry on a bank of deposit or issue in London, or within sixty-five miles thereof,—this clause,

under the pretence of removing doubts as to the construction of these Acts, enables corporations and companies composed of an unlimited number of partners to open banks of deposit in any part of England. It has been repeatedly judicially declared by the late Lord Kenyon, Mr. Justice Grose, and other eminent Judges, that if doubts arise as to the true construction of an Act of Parliament, such doubts may be removed by contemporaneous usage. There has been an uniform usage in favour of this exclusive privilege, from the passing of the first Statute relating to the Bank down to the present time.

4thly, Because by giving a right to open banks of deposit to corporations and companies with an unlimited number of partners, a spirit of speculation will be encouraged, which will endanger our commercial interests. If banks possessing the immense capitals which the proposed new banks will possess succeed, they will destroy the long-established and highly beneficial system of banking now existing in the metropolis: if they fail, their failure will ruin many unwary persons who may become partners or who may have dealings with them. The great capital which they will hold will enable them to embarrass the Bank of England in the discharge of its most important duties. The banks which this Bill directly sanctions must produce injury to great numbers of individuals, and must endanger the public interest; and on these accounts it was not long since declared by the highest legal authority in this House, with reference to the Statute of the 6th of George I, cap. 18, That the establishment of such Companies was contrary to the common law.

5thly, Because the provision which makes the promissory notes of the Bank of England a legal tender in all cases, except when they shall be presented for payment at the Bank or one of its branches, has a tendency to introduce, without any alleged necessity, and in time of profound peace, the dangerous principle of a compulsory paper currency.

William Draper Best, Lord Wynford.

Nicholas Vansittart, Lord Bexley.

Robert Smith, Lord Carrington, for the first, second, third, and fourth reasons.

Ernest, Duke of Cumberland.



## DCXCIX.

MAY 15, 1834.

Lord Wynford introduced a Bill on the 6th of May, for the better observance of the Lord's Day, and for the more effectual prevention of drunkenness. The Bill was intended to obviate Sunday trading, and to levy penalties on publicans on whose premises a man got drunk. It made contracts void which were entered upon on Sunday, &c. The Bill was read a second time by 16 to 13, but appears to have been dropped afterwards. One of those who voted for the second reading (Lord Gage) signs the following protest, in part. The protest is Lord Brougham's.

1st, Because I consider that this Bill has a direct tendency to bring odium upon the observance of the Sabbath, and contempt upon sentiments so virtuously felt and so strongly expressed by the people of this country in behalf of the Sabbatical institution.

2ndly, Because it seeks to interfere with the occupations and relaxations of men and their ordinary habits, and attempts to effect, by legislative provision, what can only be advantageously or even safely brought about by the manners of the people being amended, and their religious and moral feelings strengthened.

3rdly, Because it forbids many Acts which men may be justified and even compelled to perform on the Sabbath Day.

4thly, Because, like all legislative interference with the habits of the people, it tends to beget the far worse habit of violating the law, and thereby both impairs the character of the subject, and lowers the authority of the lawgiver.

5thly, Because the pressure of its provisions is most unequally distributed among the different classes of the community, and bears almost exclusively upon the poorer members of it.

6thly, Because the Bill itself is so framed as not to attain its avowed object merely, but to disturb the whole transactions of mankind at all times; and because most of its provisions must be remodelled, in order to confine its operation to what alone it intends to accomplish.

7thly, Because it appears to me exceedingly discreditable to any Legislative Assembly to entertain a measure which is admitted to be framed in so careless a manner that it prohibits in its present shape innumerable things which it cannot be intended to affect in any way, and which, even if those errors were corrected, would

still be found to abound in enactments wholly impossible to be enforced.

8thly, Because this Bill, even corrected as to its admitted mistakes, would still prohibit a poor man from travelling, whatever necessity might require it, at certain times, by the only conveyances he can afford, viz. public carriages.

9thly, Because it would prevent all classes from making their wills, though in extremities, on the Sabbath, if the aid of professional men were required for that purpose.

10thly, Because it appears also to intend to prevent any one from travelling post on the Sabbath, and so to compel travellers to remain at public houses unnecessarily on that day.

11thly, Because it subjects all keepers of public houses and beer houses to the visitation of constables during seven hours every Sabbath, though no beer or spirits be sold during those hours, and to the like visitation at all hours of any day when liquor is sold, for the purpose of removing from those houses any friend or relative who may be calling or visiting there, not being a customer, traveller, or a lodger.

12thly, Because it avowedly seeks to check drunkenness, as if that were the only vice now calling for prevention, and attempts doing so by making the publican liable to penalties, and to the loss of his licence, and consequently to ruin, from the intemperance of his guests, which he cannot by any possibility prevent, if he furnishes any quantity of liquor at all to them, and does not previously ascertain how much is required to intoxicate them, and even if he shall succeed in ascertaining that point, it makes him liable to the penalties if he furnishes liquor to more than one guest in the same room, unless he also remains present while they drink it, or causes his waiters to remain present in order to see that each guest only consumes the quantity which he is capable of drinking without intoxication ; and because I verily believe that no measure of so extravagant a nature ever yet received the sanction of an assembly of rational beings.

13thly, Because the publication in churches of divers notices, by virtue of various existing Statutes, is abolished, without the least precaution being taken to provide a substitute—inasmuch as the affixing to the church door, without any provision to prevent or even any prohibition of removing or defacing the same immediately

after—whereby much important business will be at a stand—and because this part of the Bill has been framed without any regard being had to the great difficulties presented by the subject of publishing parish and other notices—a difficulty which is known to have been the origin of those statutory enactments requiring publication in church.

14thly, Because it encourages workmen to be guilty of dishonesty towards their masters, by first obtaining payment of wages on a forbidden day, and then again suing, as the Bill authorizes them, for a second payment of the same wages.

15thly, Because it appears altogether absurd to hold, that by rejecting a Bill professing to have a good object in view, on the ground of its total inefficiency to accomplish its purpose, and of its tendency to create far worse mischiefs than any it pretends to prevent, any discountenance whatever is given to the professed object, or indeed any opinion at all is expressed upon the matter.

16thly, Because, upon the whole, it appears to me, that the countenancing a measure so framed, and liable to such objections, is calculated to lower the authority of this House, exposing it to be charged with motives creditable neither to its wisdom nor impartiality; while the tendency of giving such a measure such high countenance is to injure the cause which it professes to serve, and to bring everything connected with the subject into unmerited contempt.

Henry Brougham, Lord Brougham and Vaux (Lord Chancellor).

John George Lambton, Earl of Durham.

Henry Hall Gage, Lord Gage (Viscount Gage), for second, fourth, and fifth reasons.

William Pleydell Bouverie, Earl of Radnor.

DCC.

JUNE 2, 1834.

John Allan, a Calcutta merchant, after going through the usual processes, brought a Bill into Parliament for divorce from his wife. The evidence on the subject may be found in *Lords' Journals*, vol. lxvi, appendix 5 A. As he was absent from England, it was moved and carried that Standing Order 142, under which the petitioner for a Divorce Bill was obliged to attend, be suspended. This produced the,

following protest. Allan's power of attorney may be found in *Lords' Journals*, vol. lxvi, p. 343.

1st, Because it is essential to the justice and purity of legislation that no individual should be exempt from the operation of the existing law.

2ndly, Because the present Bill gives this exemption to an individual, without even a pretence to its necessity, its expediency, or its justice.

3rdly, Because, admitting that special grounds are made out for the passing of this and similar Bills, the very passing a number of such Bills annually, and nearly as a matter of course, authorises a conclusion, either that there is some defect in the law itself, or that these Bills are passed hastily, and without due consideration.

Francis Godolphin Osborne, Lord Godolphin.

## DCCI.

JULY 29, 1834.

By 3 and 4 William IV, cap. 38, a clause in 3 William IV, cap. 4, enabling the Lord Lieutenant to prohibit meetings in Ireland by proclamation, and to deal with offenders by court martial, was repealed. The Duke of Wellington moved that such parts of the Act of 3 William IV, as applied to the prohibition of meetings, should be replaced. The debate is in *Hansard*, Third Series, vol. xxv, p. 655. The Duke's amendment was negatived without a division.

The following protest was inserted.

1st, Because the three clauses of the Act of the 3rd William IV, cap. 4, which it was the object of the motion to insert in the Bill, were calculated to prevent the evil existing in Ireland which Parliament had upon former occasions declared to be 'dangerous to the public tranquillity,' 'inconsistent with the public peace and safety, and with the exercise of regular government.'

2ndly, Because the Lord Lieutenant of Ireland has declared that in his opinion the 'agitation (which it is the object of these clauses to prevent) of the combined projects for the abolition of tithes, and the destruction of the Union with Great Britain, had in every instance excited and inflamed the disturbances existing in Ireland,' which his Excellency has described as being of 'a discontented, disorderly, and turbulent character;' such as 'secret combination,

concealed organization, suppression of all evidence of crime, and the ambition of usurping the Government, of ruling society by the authority of the common people, and of superseding the law by the decrees of illegal associations': that this system of agitation had for 'its inevitable consequence, combinations leading to violence and outrage'; that they were 'inseparably cause and effect.'

3rdly, Because his Majesty's servants have expressed in strong terms their concurrence in these opinions of the Lord Lieutenant, and their sense of the necessity for adopting measures to meet the system of agitation; they have stated that it is impossible 'that a perpetual system of agitation can be pursued, without stirring up among the people a general spirit of resistance to the constituted authorities, which breaks out in excesses such as have been described.' 'That it is not safe to leave the Government unfurnished with the means to prevent an association calling itself the Central Association of Dublin, assuming a political character, carrying on its proceedings with all the forms of Parliament, directing other associations throughout all parts of Ireland, and desiring a general organisation for the express and avowed purpose of carrying into effect measures which must be subversive of the security of the country, and destructive of all peace, order, and law.' 'That it is not consistent with justice to put down the liberties of the people in the country, but not in the city.' 'That Parliament should press hard with the weight of the loins upon the peasant, but not lay the weight of the little finger on those who by their conduct nourish and increase excitement, and generalise local agitation.' 'If the effect, disturbance, and outrage, must be put down, the existing cause must be attended to likewise.' 'It is an infraction of popular rights when power is given to prevent or put an end to public meetings; but it is not a greater infraction of the Constitutional rights of the people, a more decided invasion of the indisputable rights of the King's subjects, than is to be found in the sunset part of the Bill.' 'It is necessary to apply a legislative enactment to the exciting cause, as well as to the mischief which that excitement produces.'

4thly, Because the principle of the British Constitution, and the object of all our laws, from Magna Charta down to a recent period, have been, to give protection to life and property, as well as to secure the liberty of the subject; which last has hitherto been

considered as the means to attain and secure the first-mentioned objects.

5thly, Because the protection of the subject by the Sovereign, and the allegiance of the subject to the Sovereign, are reciprocal duties. It appears therefore to be the duty of the two Houses of Parliament, convinced by the evidence laid before them of the state of disturbance, outrage, plunder, and murder existing in Ireland, of the insecurity of life and property, of the misery and sufferings of the industrious peasantry and other classes, and of the discontinuance of all habits and pursuits of industry wherever these outrages prevail, to pass laws to enable his Majesty, and those exercising his authority, effectually to prevent them, if possible, and to punish those guilty of exciting them.

6thly, Because it appears from the papers laid upon the table of the House by his Majesty's ministers, that the Act of the 3rd William IV, cap. 4, wherever it had been carried into execution, had been effectual in preventing agitation; and, in a great degree, disturbance and outrage; and in bringing to trial those guilty of such offences: that witnesses had come forward to give their testimony of injuries done to themselves or others: that magistrates and juries had performed their duties; and that the districts of the country in which the Act had been enforced were beginning to feel the effects of returning tranquillity, security, and happiness.

7thly, Because it is obvious that the Bill now under consideration cannot prevent agitation in associations in large towns; yet it is to these associations that the Lord Lieutenant attributes the system of violence and outrage, as effect to cause; and he states that he cannot separate the one from the other in the unbroken chain of indissoluble connection by any effort of his understanding.

Arthur Wellesley, Duke of **Wellington**.

James St. Clair Erskine, Earl of **Rosslyn**.

Algernon Percy, Lord **Prudhoe**.

James Archibald Stuart Wortley Mackenzie, Lord **Wharnccliffe**.

Richard Butler, Earl of **Glengall**.

Thomas Hamilton, Lord **Melros** (Earl of Haddington).

John George Weld Forester, Lord **Forester**.

John Thomas Freeman Mitford, Lord **Redesdale**.

Ernest, Duke of **Cumberland**.

Charles William Vane Stewart, Earl **Vane** (Marquis of Londonderry).

Henry Charles Somerset, Duke of **Beaufort**.

Edward Boscawen, Earl of **Falmouth**.  
 Stephen Moore, Earl of **Mount Cashell**.  
 John Colville, Lord **Colville of Culross**.  
 Percy Clinton Sydney Smith, Lord **Penshurst** (Viscount Strangford).  
 Nicholas Vansittart, Lord **Bexley**.  
 William Draper Best, Lord **Wynford**.  
 Henry Richard Greville, Earl **Brooke and Warwick**.  
 William Forward Howard, Earl of **Wicklow**.  
 James Brownlow William Gascoyne Cecil, Marquis of **Salisbury**.  
 Somerset Lowry Corry, Earl of **Belmore**.  
 Thomas Egerton, Earl of **Wilton**.  
 John William Montagu, Earl of **Sandwich**.

## DCCII.

AUGUST 1, 1834.

A Bill was introduced, the purpose of which was to open the Universities without tests, to all subjects. On the second reading the Bill was thrown out by 187 to 85.

The following protest was entered.

Because it seems to me unreasonable to confine the academical honours of a national University, or the degrees in arts and sciences (unconnected with divinity) conferred thereby, to the members of any particular Church; and it appears yet more unwise and unjust to bar all such access to knowledge (not purely ecclesiastical or theological) as a national University is enabled to afford, against those who cannot conscientiously assent to the numerous propositions contained in the Thirty-nine Articles. Excellence in the learned and liberal professions of law and medicine in no degree depends upon religious belief; and Providence not having annexed the avowal of any peculiar tenets in religious matters as the condition of attaining human knowledge, I can discover no motive of prudence or duty which should induce human authority to impose any.

Henry Richard Fox Vassall, Lord **Holland**.

## DCCIII.

AUGUST 8, 1834.

The Poor Law Amendment Act, 4 and 5 William IV, chap. 76, among other changes, put the charge of maintaining an illegitimate child on

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the mother. The Bishop of Exeter moved the omission of this clause. His motion was rejected by 93 to 82.

On this the following protest was inserted.

1st, Because the parts of the Bill which it was proposed to reject, impose the charge of maintaining every bastard child on the mother alone; thus laying on one of the parents the whole of a burthen, which by the most obvious dictate of natural justice, and the plainest deduction from the Law of God, ought to be borne equally, or in proportion to their several ability by both.

2ndly, Because the burthen thus laid on the mother, in a degree far beyond her power to bear, will ordinarily place and keep her in permanent and absolute dependence on parish relief; and, coupled with another provision, which makes any man who shall marry such mother liable to the maintenance of her child, can hardly fail to encourage the most unbounded licentiousness. For, as the woman is thus shut out from all prospect of marriage, and as both she and her spurious progeny, present and future, be they as numerous as they may, will be all maintained by the parish, without further shame, suffering or inconvenience to herself,—as, in short, she will be deprived of all the aids to virtue which Providence has mercifully given in temporal objects of fear and hope, it can hardly be doubted that her own incontinence, and the absolute impunity held out to every man, who, after she has once borne a child, may choose to offend with her, will make almost every such woman to become a common prostitute, and every workhouse, of which such women are inmates, to be a common receptacle of prostitutes, from which they will carry on their vicious courses, with little or no effectual restraint, unless the workhouse itself be converted into a gaol, and every woman who bears a bastard child, and is too poor to maintain it without assistance, be consigned to lasting imprisonment.

3rdly, Because another and more appalling consequence may be expected to ensue, in the case of those unhappy women who, after their fall from chastity, still retain some perverted feelings of honour, which the provisions of this Bill are too likely to place in conflict with the best instinct of their nature; tempting them to the destruction or the abandonment of the wretched infants, whose lives cannot be sustained without subjecting their mothers to so much of lengthened misery and degradation.



4thly, Because, while such is the injustice, and such the frightful tendency of the provisions of this Bill, as they affect women, its probable effects on men are scarcely less to be deprecated. From men in humble life the Bill removes one of the most powerful checks on their licentious appetites which Providence has imposed, in the cost and burthen consequent on the indulgence of them; thus opposing itself to God's holy institution for the continuance of the species by lawful wedlock. It does more; it directly tends to harden the hearts of men, to aggravate their natural selfishness, to pervert and corrupt their moral sensibility, to make them deem themselves released by Act of Parliament from one of the first and most obvious duties which the laws of nature, in other words, the laws of God, impose; a duty which must endure so long as the relation of parent and child shall subsist; a duty which no man, who deserves the name of man, has ever yet dared to set at nought.

5thly and lastly, Because a law which professes on the very face of it to bear so unequally on two parties, whose moral guilt must be deemed equal; imposing its burthen with exclusive and extreme severity on the more helpless, leaving the stronger and the abler absolutely untouched (even by the provisions subsequently introduced) so long as the weaker party is capable of bearing any thing, and then interfering, not on the principle of equal justice, but solely to indemnify the parish for any excess of charge, which the exhaustion of the mother may make it impossible to wring from her. Because such a law cannot carry with it, that which is indispensable in all wholesome legislation, the sanction of public opinion; but, proceeding on the unchristian principle of doing evil that good may come, must, like every other such attempt, fail of the end proposed, with this unhappy aggravation of the failure, that it tends to shake the confidence of the people in the justice and righteousness of the laws in general, and to impair their respect for that Legislature which shall have ventured to enact it.

Henry Philpotts, Bishop of **Exeter**.

Percy Clinton Sydney Smith, Lord **Penshurst** (Viscount Strangford).

Edward Boscawen, Earl of **Falmouth**.

John Rolle, Lord **Rolle**.

Stephen Moore, Earl of **Mount Cashell**.

## DCCIV.

AUGUST 8, 1834.

The following protest was entered against the Poor Law Amendment Act.

1st, Because this Bill is unjust and cruel to the poor; it imprisons in workhouses for not working those who cannot procure employment, and others for not maintaining their families who cannot by the hardest labour obtain wages sufficient to provide necessaries for their wives and children, although the want of employment and the low rate of wages has been occasioned by the impolicy and negligence of the Government.

2ndly, Because the present rate of wages, insufficient as it is, cannot be sustained, or employment found for the poor, or their condition materially improved, without ameliorating the condition of the Irish poor.

3rdly, Because we think that no necessity or sufficient expediency has been established to justify the withdrawing of the power of executing the Poor Laws from the local authorities, and transferring them to a board so constituted as proposed by the Bill, and possessing the arbitrary powers conferred on three commissioners appointed and removeable by the Crown.

4thly, Because we think the system suggested in the Bill of consolidating immensely extensive unions of parishes, and establishing workhouses, necessarily at great distances from many parishes, and thereby dividing families and removing children from their parents merely because they are poor, will be found justly abhorrent to the best feelings of the general population of the country; and especially, inasmuch as it introduces the children of the agricultural poor to town poor-houses, it will conduce greatly to the contamination of their moral principles, and be calculated to prevent their obtaining in youth those habits of industry most likely to be beneficial to them in after life.

5thly, Because the alteration of the law of settlement is calculated to operate unjustly, and to lead to still more extensive removals, and more intricate law suits, than the law as at present existing.

6thly, Because the alterations made in the bastardy laws are inconsistent with the principles of Christianity on which the

Parliament of the United Empire has always professed to proceed, since, both parents being equally bound by those principles to maintain their offspring, the father, being more able to contribute to that maintenance than the mother, ought to pay more largely; whereas by this Bill he is all but exonerated from any such obligation.

7thly, Because we consider that nearly all, if not all, the evils which may have existed in the administration of the present laws, might have been corrected by a short Act securing the due administration of the Poor Laws, under the control of the existing magisterial and other local authorities.

George Kenyon, Lord **Kenyon**.

Henry Philpotts, Bishop of **Exeter**, for the fourth and sixth reasons.

Charles Marsham, Earl of **Romney**.

John Rolle, Lord **Rolle**, for the fourth and sixth reasons.

William Draper Best, Lord **Wynford**.

Stephen Moore, Earl of **Mount Cashell**.

Percy Clinton Sydney Smith, Lord **Penshurst** (Viscount Strangford), for the first and sixth reasons.

Henry Francis Roper Curzon, Lord **Teynham**.

## DCCV.

AUGUST 13, 1834.

The draught of the Poor Law Amendment Bill, as amended by the Lords, enabled the commissioners created under the Act to deal with the case of paupers in workhouses, who might have scruples about religious worship according to the Church of England. This clause was struck out in the Commons for reasons alleged at a conference, and the Lords agreed to the omission. The following protest was inserted by Lord Brougham.

Because there can be no necessity for a provision against such extreme folly, and such unjustifiable oppression, as the compelling paupers to attend the service of a Church which they dissent from, and preventing the resort to them of their own pastors; and, at all events, there seems just the same reason for prohibiting other kinds of oppression, such as denying access to the pauper's relatives or lay spiritual advisers on his death-bed, and yet no provision of this sort has been judged necessary.

The whole clause is founded upon distrust of the commissioners,

whom it supposes capable, if not prohibited, of framing rules in a spirit of persecution unknown at the present time, and whom it presumes unwilling to secure by fit regulations the access of spiritual instructors to members of the Established Church as well as dissenters.

This distrust of the commissioners upon such a matter is wholly at variance with all those provisions of the Bill which clothe them with the largest discretionary powers; and if they are to be the objects of suspicion in this respect, it is impossible safely to grant them any authority in any matter whatever requiring the exercise of a sound discretion.

But it is further to be observed, that the clause, far from accomplishing its own manifest purpose, is so contrived as to defeat it, for the access of licensed ministers alone is directed, and it is not known that there are any persons, either of the Established Church or among the dissenters, excepting one class, namely licensed curates and lecturers, who answer this description. The rectors and vicars and perpetual curates of the Established Church, the Catholic priests, and all the ministers of the various sects of Protestant Dissenters, as well as all the teachers of the Methodists, are thus left out of the right of access given by the clause; but if their omission should be considered as intimating the intention of the Legislature to exclude them, then it would follow that neither Roman Catholics nor Protestant Dissenters of any class, nor Methodists of any description, could receive any spiritual aid from their own pastors; while even members of the Established Church could only receive the spiritual assistance of licensed curates or lecturers. It is indeed to be hoped that such a construction will be avoided, if possible; but it can only be escaped by the assistance of the commissioners, who, were they in the least degree actuated by the spirit against which the clause was intended to provide, would inevitably act upon the plain and literal meaning of its words, and shelter themselves behind these words against all blame for excluding almost all religious consolation from workhouses, so that the only defence which is afforded to the parties for whose protection the clause was framed, against being persecuted by force of that clause itself, must be found in the firmness and discretion of the commissioners being exerted to mitigate its rigour by construction; that is to say, the clause

would defeat itself, and oppress the objects of its favour, but for those commissioners, the distrust of whom was the only motive for introducing it.

It is further to be remarked, that if the clause has any effect at all from such a literal construction being adopted, it empowers the inmates of workhouses, at their own request, to have whatever persons may be deemed licensed ministers of their own persuasion admitted to them at all hours of every day in the week; a degree of liberty extremely liable to abuse, and wholly subversive of all the discipline necessary to such establishments.

Lastly, It appears eminently indiscreet to mix up with the present measure any questions leading to the excitement of religious controversy, and almost obliging the commissioners to take a part in such contentions.

Henry Brougham, Lord Brougham and Vaux (Lord Chancellor).

## DCCVI.

FEBRUARY 24, 1835.

In November 1835 Lord Melbourne's ministry went out of office, and that of Sir Robert Peel was substituted. At the meeting of the House, Sir Charles Sutton, the former Speaker, was displaced by Mr. Abercromby, who had 316 votes to 310, on the 19th of February. The King's Speech was read on the 24th, and Lord Melbourne moved an addition to the Address, 'That we acknowledge with grateful recollection that the Act for amending the Representation of the People was submitted to Parliament with your Majesty's sanction, and carried into law by your Majesty's assent: That, confidently expecting to derive further advantages from that wise and necessary measure, we trust that your Majesty's councils will be directed in the spirit of well-considered and effective reform; and that the liberal and comprehensive policy which restored to the people the right of choosing their representatives, and which provided for the emancipation of all persons held in slavery in your Majesty's colonies and possessions abroad, will, with the same enlarged view, place without delay our municipal corporations under vigilant popular control, remove all the well-founded grievances of the Protestant dissenters, and correct those abuses in the Church which impair its efficiency in England, disturb the peace of society in Ireland, and lower the character of the Establishment in both countries. That we beg leave submissively to add, that we cannot but lament that the progress of these reforms should have been interrupted and endangered by the dissolution of a Parliament earnestly intent upon the vigorous prosecution of measures to which the

wishes of the people were most anxiously and justly directed.' This was negatived without a division, and the following protest inserted.

1st, Because it is essential to the dignity and security of the Throne and the welfare and peace of the Empire that the people should have well-grounded cause to rely upon the wisdom, consistency, and stability of the Government.

2ndly, Because the nation has been justly disappointed and alarmed by the ominous dismissal of his Majesty's late ministers at a period of profound tranquillity, and by the unconstitutional assumption of several of the highest offices of the Crown by a military nobleman who had long since admitted his own unfitness to act as the head of the civil government of the country.

3rdly, Because those who have since been induced to join that nobleman in the formation of the ministry, as now composed, are men whose political principles are held in just reprobation by the most numerous and the most intelligent classes of the community.

4thly, Because the ministers to whom the destinies of the British Empire are now committed are the remnants or successors of that class of statesmen who forty years ago and subsequently, by their sinister policy abroad and at home, involved the nations of Europe in a destructive general war, and repressed, as far as in them lay, the domestic growth of liberal opinions, and who, at the termination of that war, waged on their part, and prosecuted, at a ruinous expence, against the liberties of their neighbours, brought discredit on the name of England, by sanctioning the transfer of many states entitled to independence to the sway of hostile and despotic powers, by permitting the bravest amongst the marshals of France to be executed under an unjust and unnecessary sentence, and by consigning the greatest man of the age to exile and death on the miserable rock of St. Helena.

5thly, Because those ministers have, in the spirit of their predecessors, uniformly resisted all measures of reform in our political institutions, so long as such resistance was found to be availing; and because they still hold and openly profess doctrines of government, in relation to pending questions of deep public interest, which render it impossible that they can obtain the confidence and cordial support of the British people, expressing their sentiments through a reformed House of Commons.

6thly, Because the abrupt re-accession of those ministers to

power has occasioned peculiar and well-founded disquiet and discontent in the minds of the great majority of the people of Ireland, who, reverting to the scenes through which they passed under the rule of the political predecessors of those ministers, and justly alarmed at the exclusive spirit already manifested by the local government of Ireland, are impressed with fearful apprehensions, that so long as that government, as now constituted and advised, shall last, the Irish people will have to maintain a renewed struggle against the domination of a faction; and that the persecuting efforts of that faction will be to re-establish for itself a hateful political ascendancy, to check the spread of popular education upon a sound and practicable system, to repress the urgently required reforms in the municipal corporations of Ireland, and impede the speedy settlement of those questions relating to the Established Church, which, remaining unadjusted, prove a constant source of animosity and contention, and have already produced many dreadful sacrifices of human life.

Valentine Browne Lawless, Lord Cloncurry.

## DCCVII.

AUGUST 8, 1835.

Peel's administration was dissolved on the 8th of April, in consequence of an adverse vote of the 7th of April, on the disposal of the surplus fund of the Irish Establishment, and Lord Melbourne was reinstated in office. The new ministry set to work on a Corporation Reform Bill, the Crown having appointed certain Commissioners to report on the subject. Doubts were entertained as to the legality of the powers conferred on the Commissioners. When the Bill reached Committee, Lord Carnarvon moved that 'evidence be taken at the Bar of the House in support of the allegations of the several Petitions, praying to be heard against the Bill, before the House be put into a Committee of the whole House on the said Bill.' After a long debate the Amendment was carried by 124 to 54. The following protest was inserted by Lord Winchilsea and the Duke of Newcastle, though neither of these Peers voted for or against hearing evidence, their hostility being against the Commission and the Bill.

1st, Because the Commission under which the Commissioners for inquiring into Municipal Corporations have acted is perfectly illegal and unconstitutional, the Constitution of this country recognising no such arbitrary power as that which has been claimed by the Crown of issuing a Commission without the consent of the

Houses of Parliament, deeply affecting the hereditary rights, privileges, and properties belonging to the municipal borough towns included in the Report made by the said Commissioners.

2ndly, Because that, by acknowledging such a principle by hearing evidence, this House will establish a precedent of a most dangerous character, which will endanger the security, not only of all existing hereditary rights and privileges, but of every species of property, whether of a public or private character, existing in this country.

3rdly, Because that, however specious the title of this Bill may appear, it is evident to every mind unprejudiced by party feeling, that the object which it is intended to accomplish is the furtherance of that democratic spirit which is at present afloat in this country, and which is aiming at the total subversion of all the civil and religious institutions of the British Empire.

George William Finch Hatton, Earl of Winchilsea and Nottingham.

Henry Pelham Clinton, Duke of Newcastle.

### DCCVIII.

AUGUST 3, 1835.

The following protest was entered against hearing counsel in support of Petitions against the Municipal Corporations Bill. The Bill finally became 5 and 6 William IV, cap. 76.

1st, Because we consider the provisions of this Bill, which is neither a Private Bill nor a Bill of Pains and Penalties, but one of a general and remedial nature, as not affording any reason for the admission of evidence that would not have applied equally to a great number of other legislative measures which have been passed through both Houses of Parliament without the proposition of such an examination of witnesses ever having been made.

2ndly, Because evidence has been tendered and refused by this House in former cases where individual interests of property were at least equally involved.

3rdly, Because the evidence tendered in this instance was all for the purpose of proving facts which are not necessarily in issue between those who support and those who oppose the passing of this Bill—facts all of which may be admitted to be true without



the least impeachment of the principle of the measure or any of its details.

4thly, Because the main ground of complaint, and the chief reason urged for receiving evidence, is not any objection to the provisions of the Bill, but an objection to one part of its preamble which might be entirely omitted without any prejudice to the Bill.

5thly, Because the evidence tendered relates almost exclusively to the conduct of the Commissioners appointed to enquire into the state of Municipal Corporations, and the Report of those Commissioners ; whereas their conduct forms no part of the question raised by the Bill now brought before the House, and the Report is no necessary part of that measure.

6thly, Because, if evidence is to be received, upon the ground that certain parties conceive themselves aggrieved by a certain Report, or by the conduct of certain Commissioners, and not in proof of any injury apprehended from a measure before the House, there is no reason why evidence should not be received to rebut the matters contained in any Report or any other document laid upon the table of this House, and proceeding from any quarter whatever, even if no legislative measure should have been grounded thereupon, nor any proceeding of the House proposed to be adopted in connexion therewith.

7thly, Because the admission of evidence, beside establishing a precedent for an indulgence which tends directly to impede our legislative functions, must in this instance consume the time of the House, without giving any material assistance to the discussion of the subject, while it places in jeopardy the passing of a Bill called for by every consideration of sound policy, and by a due regard to the rights of the people.

8thly, Because when we assented to the application for hearing the case argued by counsel, we did so, protesting against its being either necessary or justifiable, but in order to remove all possible ground of complaint, and in the firm belief that it was the intention of the House to confine the proceeding at the Bar to hearing the arguments of two counsel.

Henry Brougham, Lord Brougham and Vaux.

William Henry Vane, Duke of Cleveland.

Henry Richard Fox Vassall, Lord Holland.

Henry Tufton, Earl of Thanet.

Henry Francis Roper Curzon, Lord **Teynham**.  
 Ulick John de Burgh, Lord **Somerhill** (Marquis of Clanricarde),  
 excepting the eighth reason.  
 John William Ponsonby, Lord **Duncannon**.  
 Thomas William Anson, Earl of **Lichfield**.  
 William Conyngham Plunket, Lord **Plunket**.  
 William Charles Keppel, Earl of **Albemarle**.  
 George Eden, Lord **Auckland**.  
 William Lamb, Lord **Melbourne** (Viscount Melbourne).  
 George Byng, Viscount **Torrington**.  
 Gilbert Eliot Murray Kynynmound, Earl of **Minto**.  
 Henry Fitzmaurice Petty, Marquis of **Lansdowne**.  
 William Douglas, Lord **Solway** (Marquis of Queensberry<sup>1</sup>).

## DCCIX.

AUGUST 11, 1835.

A Bill was brought in by Lord Clanricarde to repeal 19 George II, cap. 13 (Irish Statutes), which made void all marriages celebrated by any Popish priest between Protestant and Papist. Lord Clanricarde pointed out the indecencies and injustice inflicted by the working of the Act. The motion for reading the Bill that day six months was moved by Lord Carbery, and supported by Lord Limerick and others. See Hansard, Third Series, vol. xxx, p. 243. The motion was carried by 42 to 26.

The following protest was entered.

1st, Because the Act proposed to be repealed forms the remains of the Penal Laws, the greatest disgrace to the Statute Book of England, is marked in a peculiar degree with the reckless disregard of all justice and all humanity which distinguish that code, and exhibits, beyond even the ordinary measure incident to its provisions, that inconsistency and self-repugnance by which the system seemed destined to prove, that attempts to outrage all the feelings of the heart naturally do the like violence to all the powers of the understanding.

2ndly, Because, under pretence of prohibiting Romish priests from marrying Protestants, it makes the contract void which may have been entered into by parties, one of whom really was and the other pretended to be a Catholic for the purposes of deception, thereby enabling any one to seduce an unsuspecting woman, under the colour of a marriage which he may at any moment annul, casting

<sup>1</sup> Lord Solway is entered thus on the Roll. He signs himself, irregularly Queensberry.

the supposed wife upon society with the character of a prostitute, and with bastardy for the portion of her children.

3rdly, Because even where no fraud is practised or designed the difficulty is oftentimes extreme, frequently insurmountable, of shewing that a person deceased, under whose marriage any party claims to be legitimate, had become a Catholic at the period of such marriage, while his having done any act as a Protestant within twelve months before would throw the burthen of proving his conversion upon the children.

4thly, Because the suggestion that this cruel law, the source of boundless misery to innocent persons, and the cloak for the most cold-blooded frauds, has any tendency to prevent clandestine marriages, is wholly devoid of foundation, inasmuch as it only assumes to affect Protestant marriages, and inasmuch as those can with equal if not greater facility be performed and are in fact clandestinely performed every day, and in all parts of the country, by Protestant clergymen, under the full sanction of the law.

5thly, Because even if it were proved that the numbers of clandestine marriages are diminished by the Act, which they are not, there can be no kind of comparison between the mischiefs of such unions and the intolerable cruelties and frauds to which this iniquitous provision gives rise, by offering the constant means of perpetrating them with absolute impunity, the wrong-doers in all cases escaping, the innocent alone being the victims of the penalty.

Henry Brougham, Lord Brougham and Vaux.

Ulick John de Burgh, Lord Somerhill (Marquis of Clanricarde).

## DCCX, DCCXI.

AUGUST 12, 1835.

The Municipal Corporations Act was put into Committee on this day, and the following protests were inserted.

1st, Because, that Parliament can or ought to have no power which is not founded in wisdom, justice and equity.

2ndly, Because, that corporations hold by prescription and by royal charter, which give as good a title, and confirm to them the possession of their rights, privileges and property by a guarantee as

secure and binding as that by which any individual British subject whatsoever claims to enjoy his possessions, whatever they may be.

3rdly, Because, that the King alone is by law constituted visitor of corporations, and has the right to enquire into and redress any delinquencies, through his Majesty's Court of King's Bench or other Courts, and therefore that the irregular interference of Parliament is a fearful assumption of power, and a perilous inroad upon the royal prerogative.

4thly, Because, that the Bill, called, 'An Act to provide for the Regulation of Municipal Corporations in England and Wales,' is in fact a Bill of pains and penalties founded upon the report of an illegal commission.

5thly, Because, that the House of Lords in its judicial capacity cannot go into the allegations of such a Bill until sufficient ground for doing so be proved by evidence at the Bar.

6thly, Because, that therefore no step ought to have been taken, nor the Bill pass through any of the usual stages, until such evidence had been heard, and the charges substantiated.

7thly, Because, that the principle of the Bill, as well as the Bill itself, is opposed to all constitutional justice and political wisdom, and may fairly be suspected by a sacrifice of the defenceless corporations to be intended to commence the overthrow of our civil, ecclesiastical and all other ancient and cherished national institutions.

For these reasons we emphatically protest against the Bill going into Committee or passing into a law.

Henry Pelham Clinton, Duke of Newcastle.

Francis Charles Seymour Conway, Marquis of Hertford.

George Kenyon, Lord Kenyon.

George Irby, Lord Boston.

1st, Because the commission of municipal inquiry has been declared by most eminent legal authorities to be unconstitutional and illegal; this opinion being confirmed by the fact that the ministers of the Crown and authors of this Bill have not, in cases where the powers of the said commission were resisted, attempted to enforce them.

2ndly, Because, had the commission been legal, the twenty commissioners appointed were, almost without exception, a packed

body of known partizans, most of them so biassed against the subjects of their inquisition as to render them wholly unfit to conduct it with fairness and impartiality.

3rdly, Because, had the commission been legal, and the Commissioners been appointed with a due regard to fitness for their offices, or to any principle of equity, their report has been proved, by evidence upon oath at the Bar of this House, to be replete with exaggerated trifles, or perverted facts as to the past, calculated to afford an unjust and untrue account of the present state of corporate municipalities, which it was the professed object of the commission fairly to set forth.

4thly, Because this Bill, illegal, unconstitutional and despotic as it is in its origin, principle, and details, can alone have been, and has in fact been, founded upon the said Commissioners' Report, and not only have the charges contained in that Report been disproved, but the general efficiency of the municipal bodies has been satisfactorily established; therefore this House ought not to proceed farther with the said Bill, of which the preamble sets forth abuses and inefficiency as the chief ground for the whole of its contents.

Edward Boscawen, Earl of Falmouth.

For the first, third, and fourth reasons.

George Kenyon, Lord Kenyon.

## DCCXII.

AUGUST 28, 1835.

The third reading of the Municipal Corporations Act was taken this day. It was opposed, but carried by 69 to 5.

The following protest was entered.

1st, Because we view with the deepest jealousy and alarm the unconstitutional power which by the advice of the ministers has been claimed by the Crown (and which has never before been conceded to it) of issuing a commission of an inquisitorial character such as that which stamps the commission on which this Bill has been founded.

2ndly, Because, as the constitution of this country consists of King, Lords and Commons, we will maintain inviolate that sound

constitutional doctrine (regarding its maintenance as the best security for our national rights, privileges, and liberties) that no commission conveying such powers as are contained in that now referred to can properly proceed from any one power in the State, but should rest on no less authority than the concurrence and approbation of the other two remaining branches of the Legislature.

George William Finch Hatton, Earl of Winchilsea and Nottingham.

George Kenyon, Lord Kenyon.

### DCCXIII.

AUGUST 28, 1835.

The following protest refers to the numerous alterations made in the Municipal Corporations Bill, during its passage through Committee. The debates on this subject are to be found in *Hansard*, Third Series, vol. xxx.

1st, Because the amendments to the Bill alter its whole structure, are altogether inconsistent with its principles, and while they impair its efficiency to any good purpose present it to the view of the country in a light still more unfavourable than even the measure thus altered may in itself deserve to be regarded.

2ndly, Because the alleged preservation of the rights of freemen within the corporations is founded upon an entire misapprehension of the nature of corporations, and of the title by which they hold property, it being a principle wholly undeniable, that whatever property is held by any corporate body belongs to that body, under whatever form and with whatever modifications the Legislature may be pleased to impress upon it; and that all corporations, as well ecclesiastical as lay, only have a title to the property which they possess upon the ground of the corporation continuing identically the same after its formation has been changed by law.

3rdly, Because the continuing of the parliamentary franchise to the freemen, or those who would have been entitled to become freemen but for this Bill, is a perpetuation of the very worst evils of the representative system, the freemen being the class of voters among whom all the evils of bribery and corruption have been in all cases found most extensively to prevail.

4thly, Because the qualification adopted of the sixth part of the

rate-payers, those who pay the largest amount of rates, is contrary to the whole principles of our free Constitution, establishing for the first time as a rule that the political rights and privileges of the State shall belong only to those who have more money than their fellow citizens; not affixing, as our older laws have done, a certain amount of wealth as the test of the right to mingle in public affairs, but excluding all therefrom except the richest class; so that not merely rich persons, or persons in easy circumstances, are henceforth to be deemed eligible to office, but the richest, the persons who excel their fellow citizens in wealth, are declared to be alone capable of administering the municipal concerns; a principle absurd in itself, and oppressive, and fraught with the mischiefs of oligarchy in its worst and most offensive form,—the oligarchy of mere property, without any other qualification or modification whatever.

5thly, Because the introduction of this novel and pernicious principle is rendered still more absurd by the alternative which is added, allowing any person, in some boroughs of £1000, in others of £500 worth of property, to be eligible, inasmuch as this wholly defeats the only purpose with which the new principle objected to is adopted; so that the provision, taken altogether, is wholly inoperative to prevent fraudulent and fictitious qualifications, the sole ground of intruding the new principle, while it sanctions for the first time a doctrine altogether inconsistent with the spirit of all our institutions.

6thly, Because the election of aldermen for life is the fruitful source of manifold inconveniences and abuses; removing the persons chosen from all salutary control; forcing them into a class set apart from their fellow citizens, to whom they are wholly unaccountable; sowing the seeds of constant dissension and jealousy between the different classes of councilmen; perpetuating the power of men whom unfitness, not originally discovered, incapacity supervening old age, infirmity of any kind, may render wholly or partially unable to discharge the duties of their office.

7thly, Because the continuance of the existing aldermen or capital burgesses and town clerks is the certain introduction into the new councils of the worst evils of the old close and self-elective system, making it inevitable that the same kind of influence should continue to prevail in the corporations affected to be reformed, and

wholly preventing the change which this measure professes to effect from producing any substantial benefit in purifying the administration of municipal concerns.

8thly, Because these alterations of the Bill, and more especially the last, have a direct tendency to exhibit this measure to our countrymen as a mere mockery or pretence of reform, as holding out in words the promise of improvement, which it at the same time breaks.

9thly, Because the converting an office granted during pleasure into an office for life, without the consent of the grantor, is contrary to all principle, without any precedent, and a much more glaring violation of the rights of parties than any which even the adversaries of the Bill have imputed to its provisions.

10thly, Because the amendments, and those especially relating to retaining persons in their office, proceed upon a supposition that the councils chosen by the people are less fit to be trusted with the administration of the corporate offices, and more likely to do acts of imprudence and of injustice, than the present bodies, which owe their existence and continuance to self-election.

11thly, Because the requiring that a councilman shall be a member of the Church of England before he can vote for the presentation to a living is utterly repugnant to the whole spirit and even to the letter of the law of England, sanctioning the principle of tests long after these have been abrogated, absurdly assuming that corporators are less fit, or less likely honestly to exercise rights of Church patronage, than private individuals, who are by law subject to no such restrictions, and stigmatizing dissenters with the hateful imputation of being disposed to violate trusts reposed in them, by appointing unfit persons to perform clerical functions, with the view of fraudulently undermining the Established Church, a conduct of which we in our consciences believe the dissenters to be utterly incapable.

12thly, Because we believe that the character of these amendments is to injure the measure in all its essential principles, leaving only as much of it as could not have been altered without rejecting the Bill altogether, while we are firmly persuaded that the changes effected are calculated to produce in men's minds an opinion of this House being far more hostile to the fundamental principles of the measure than it really is, and because we thus



hold it to be inevitable that far more harm will be wrought by the changes made in the Bill than good can be gained, even according to the views of those who have propounded them.

Henry Brougham, Lord Brougham and Vaux.

Francis William Molyneux Caulfield; Earl of Charlemont.

Valentine Browne Lawless, Lord Cloncurry.

Thomas Denman, Lord Denman.

Henry Francis Roper Curzon, Lord Teynham.

John Campbell, Marquis of Breadalbane, excepting the second reason.

## DCCXIV.

FEBRUARY 4, 1836.

The address to the King's Speech contained a clause to the effect that the House being in possession of the facts bearing on the state of Municipal Corporations in Ireland, partakes of the hope that the same remedies as had been adopted in England would be applied to the Irish Corporations. To this the Duke of Wellington objected, and carried an amendment (without a division), couched in general terms.

The following protest was entered.

1st, Because such amendment will excite in the minds of the people of Ireland a fear that it is not intended to extend to them the same meed of justice and the same extent of corporate reform which has been so beneficially afforded to the people of England and of Scotland.

2ndly, Because a full measure of corporate reform is more necessary, if possible, in Ireland, than it could have been in England, the majority of corporators in Ireland being not only insolvent speculators but traders in religious intolerance insulting to the majority of the people.

3rdly, Because great alarm must be excited in the minds of the friends of Ireland by an address proposed by the first Peer of that country, constantly resident, acquainted with their wants, and dear to their hearts, being curtailed or emasculated at the suggestion of a party whom they believe to be hostile to their interests and to the general principles of liberty.

4thly, Because in the present state of public opinion in Ireland it is necessary to prove to the people of that country that it is the intention of Parliament to treat her as an integral part of the Empire, which can alone suppress or mitigate their aspirations for a domestic and national legislature.

5thly, Because the long-continued system of injustice and opposition to which the people of Ireland have been subjected has engendered a degree of suspicion and distrust in their minds which can only be overcome by the most perfect fulfilment of promises held out and of hopes fostered in their bosoms by a Sovereign they revere, a local government they respect, and an administration who, having done so much for the cause of reform in England, must, in their good policy and good sense, see the necessity of obtaining as much for Ireland.

Valentine Browne Lawless, Lord Cloncurry.

### DCCXV.

APRIL 26, 1836.

The motion that the House be put into Committee on the Irish Corporations Bill was met by a counter-motion, 'That it be an instruction to the Committee that they have power to make provision for the abolition of such Corporations, and for such arrangements as may be necessary on their abolition for securing the efficient and impartial administration of justice, and the peace and good government of cities and towns in Ireland,' brought forward by Lord Fitzgerald and Vesce (see Hansard, Third Series, vol. xxxiii, p. 233). This was carried by 203 to 119, and the following protest was inserted.

Because I believe it to be unusual, if not irregular, and I am sure it is imprudent, with a view to the preservation of a good understanding between the two Houses of Parliament, to introduce into a Bill brought from the House of Commons any amendment inconsistent with the title and at variance with the principles thereof; and it appears to me that the alteration pointed to in the instruction is manifestly inconsistent with the title and principles of a Bill, intituled 'An Act to provide for the regulation of Municipal Corporations and Borough Towns in Ireland.'

Henry Richard Fox Vassall, Lord Holland.

Ulick John de Burgh, Lord Somerhill (Marquis of Clanricarde).

Archibald John Primrose, Lord Rosebery (Earl of Rosebery).

William Pleydell Bouverie, Earl of Radnor.

### DCCXVI.

JUNE 27, 1836.

The Municipal Corporations (Ireland) Bill was so completely altered in its passage through the House of Lords, and the Commons were so

thoroughly at variance with the Lords, that the Bill was abandoned on the 11th of August. The object of the Lords was to maintain the Protestant interest in the Irish Corporations. The debates in both Houses were carried on with extraordinary asperity,—see Hansard, Third Series, vols. xxxiii-v *passim*.

The following protest was entered on the Lords resolving to insist on their amendments by 220 to 113.

1st, Because, however undoubted may be the right, and however essential to the Constitution the exercise of the right, of separate and independent judgment in each House of Parliament, it is not less essential that all unnecessary collision should be avoided.

2ndly, Because in the present instance the House of Commons made advances towards an agreement, which, in my humble opinion, might beneficially have been met with a similar and corresponding disposition.

3rdly, Because, thinking as I do, that Conservative principles, and respect for the beneficent institutions of former times, are essential to the duly tempering any desire of change, which, in the name and with the hopes of improvement, may rise up in a free and enlightened people, I cannot but think the destroying all the Corporations in Ireland highly adverse to those principles, especially when the purpose is to be effected by amendments to a Bill, rather than by a distinct and substantive measure, examined and decided with all the caution, deliberation, and justice for which the forms of each House have carefully provided sufficient opportunities in the discussion of all important measures.

4thly, Because the object of destroying or withholding civil rights because their exercise might fall to a majority of voters not professing the religion of the Established Church would lead, if pursued, to annihilate one of the noblest acts of liberality, wisdom, and just confidence in our own religion which ever honoured the Legislature, and especially this House, which took the lead on that ever memorable occasion of just and enlightened policy.

5thly, Because I would not join in fixing the embarrassment of this unsettled question upon the present or any future administration, nor would I expose to certain misconstruction and misrepresentation the conduct which I cannot doubt has been dictated by the most sincere and virtuous motives in a majority of this House.

6thly, Because I would not arm and assist those who mean

mischief, nor would I, at the close of a long life, leave a legacy of discontent and disaffection to a sensitive, brave, and loyal people.

John Charles Villiers, Earl of Clarendon.

## DCCXVII.

APRIL 6, 1837.

By the fourth clause of the Royal Mint Bill, 7 William IV, cap. 9, the Treasury was empowered to authorise the issue of money for the purpose of purchasing bullion, such issues to be applied to no other purpose, and an account to be laid before Parliament of all such transactions within ten days of the commencement of the Session. Lord Brougham objected to this clause as unconstitutional, but did not divide the House on the subject. He inserted however the following protest.

1st, Because it is of evil example, and contrary to the wholesome usage of Parliament, to give the Crown a power of issuing money for any service to an amount unlimited and unknown, the course hitherto pursued having been to specify a sum beyond which the expenditure should not be carried, even where the exigency of the occasion required the largest discretion to be bestowed; and the practice sometimes adopted, of leaving the remunerations for certain services of a subordinate kind to be fixed by the different departments of government, forming in reality no exception to the general rule.

2ndly, Because, if the unlimited discretion was to be vested in the Crown, there was the greater necessity for guarding its exercise by apt and effectual restrictions, and these are wholly wanting in the provisions of this clause. Instead of confining the issue of money to sums required for purchasing silver bullion, which is represented as the only object of the provision, the power is extended to the purchase of all bullion; instead of confining the issue of money to such sums as may be required for enabling the Master of the Mint to complete purchases which he shall have contracted to make, the clause authorizes the Treasury to issue any sums of money upon account to enable the Master of the Mint to effect any purchases, whether contracted for or not; instead of requiring him to pay into the Exchequer the whole proceeds of the coinage, and the balance of the sums issued to him upon account, it only requires him to pay in the proceeds of the coinage; and the

proviso in the clause does not require an account of all issues and repayments of money to be laid before Parliament within a given time after the same shall have been made, or after the commencement of the next Session after the same shall have been made.

3rdly, Because nothing can be more dangerous or more absurd than to defend the giving unconstitutional powers, and powers liable to be abused, by the suggestion that the abuse is not likely to happen, unless it be the suggestion that the provisions of a Statute have a certain meaning wholly different from that which the terms employed convey, the framers of it having intended one thing and expressed another; as that bullion means silver bullion, that issuing money upon account for effecting a purchase means issuing money for completing a purchase contracted to be made, and that laying an account every Session before Parliament of issues and repayments made in each year means laying an account before Parliament as soon as possible after such issues and repayments are made; and these are the only grounds upon which it is possible to defend the clause.

Henry Brougham, Lord Brougham and Vaux.

## DCCXVIII.

APRIL 6, 1837.

An Act, 7 William IV, cap. 10, was passed in this Session of Parliament, authorising the removal of persons born in Scotland and Ireland, and chargeable to English parishes. This was objected to by Lord Brougham on the ground of its injustice and hardship. And though he did not divide the House on a clause which he proposed excluding all persons of fourteen years of age, and born in England and Wales, from the operations of the Statute, he inserted the following protest.

Because the object of the Bill is to remove natives of Scotland, Ireland, Man, and Scilly to the place of their birth; and although, in order to attain this object without inconvenience, it may be necessary also to remove with them their infant children, wherever born, yet nothing can be more unjustifiable, more contrary to all principle, or more productive of abuse and oppression, than permitting grown-up persons born in this country to be removed

and sent out of England against their will; and the clause proposed to be inserted only prevented this from being done.

Henry Brougham, Lord Brougham and Vaux.

## DCCXIX.

APRIL 11, 1837.

Lord Radnor introduced a Bill entitled 'An Act for appointing Commissioners to enquire respecting the Statutes and administration of the different Colleges and Halls at Oxford and Cambridge,' and moved its second reading. The debate on the subject may be found in Hansard, Third Series, vol. xxxvii, p. 1001. The Bishop of Llandaff (Copleston) moved that the Bill be read that day six months, and the amendment was carried without a division.

The following protest was inserted.

1st, Because these Colleges and Halls are eleemosynary foundations similar to others which have been inquired into, and no reason was alleged why they should not be inquired into as well as the others.

2ndly, They are peculiarly fit objects of inquiry, inasmuch as,—

1. The present Statutes of the Universities requiring that all matriculated members shall belong to and be inmates in some one of the said Colleges or Halls, and subject to its discipline, the said Colleges and Halls have acquired a public character and a national importance which originally did not belong to them.
2. The said Colleges and Halls are for the most part of very ancient foundation, and many of their Statutes, contemplating a state of society very different from the present, and a religion other than that now established, are totally inapplicable to the present times, and impossible to be observed.
3. Obedience to the Statutes is generally (if not in all cases) enforced by the solemnity of oaths, which, from the necessity of the case, are explained away, evaded, or openly violated.
4. It was avowed in the debate that such was frequently the practice, and this practice, in our opinion dangerous to public morals, was palliated, if not justified.

3rdly, It is alleged in the petitions against the Bill, sent up from several of the said Colleges, and presented to the House, that the Fellows and Scholars belonging to the same were sworn to obey the original Statutes of their Founders, and to admit of no deviation from them, and that there exists no power, either in the governing members of those institutions or in their visitors, to alter, modify, or amend the same, and therefore no power short of that of Parliament can effect that object.

William Pleydell Bouverie, Earl of Radnor.

Henry Richard Fox Vassall, Lord Holland.

Henry Brougham, Lord Brougham and Vaux.

Edward John Littleton, Lord Hatherton.

Ulick John de Burgh, Lord Somerhill (Marquis of Clanricarde),  
for the first and second reasons only.

John William Ponsonby, Lord Duncannon.

## DCCXX.

MAY 9, 1837.

During the month of April, a number of resolutions on the government of Lower Canada were debated in the House of Commons. These resolutions (opposed generally by Mr. Roebuck, then member for Bath), were presented to the House of Lords at a Conference held on the 1st of May, and may be found in the Lords' Journals, vol. lxi., p. 258. It was resolved to take them into consideration on the 9th of May, and on Lord Glenelg's motion the Lords adopted them, Lord Brougham alone dissenting. The following protest was then entered.

1st, Because these resolutions, embracing a great variety of important subjects, upon which different opinions may be entertained by the same persons, were all put to the vote at once, in a House consisting of not a tenth part of the numbers that frequently attend when questions affecting the interests of political parties or even individuals stand for discussion.

2ndly, Because, though some of these resolutions are justifiable, there are others, and especially the eighth, which set all considerations of sound policy, of generosity, and of justice at defiance, and will most likely be regarded as indicating a design to crush whatever spirit of opposition to the Executive Government may at any time and for any cause show itself in any portion of the North American provinces.

3rdly, Because it is the fundamental principle of the British Constitution which was intended to be established in Canada by the Act of 1791, and was finally promulgated in 1831, that no part of the taxes levied upon the people shall be applied to any purpose whatever without the consent of their representatives in Parliament; and this control over the revenue ought in an especial manner to be vested in the people of the Colonies, seeing that it never can give them the same unlimited influence which it confers upon the people of the parent State, for if supplies are withheld by the Commons of England on account of grievance the Crown has no other resource, and the grievance must be redressed, whereas if the Commons of the Colony withhold supplies for the like reasons, the Crown cannot by this proceeding be obliged to redress the grievance as long as the Parliament of the mother country is willing to furnish the funds required.

4thly, Because the taking possession of the money placed by the British Parliament at the disposal of the Colonial Councils, without their consent, is wholly subversive of the afore-mentioned fundamental principle, and directly contrary to the wise and salutary provisions of the Act passed in 1831; nor does it at all signify that this is said only to be done upon the present occasion, and that the rights of the Colonial Parliament are represented as left unimpaired; the precedent of 1837 will ever after be cited in support of such oppressive proceedings, as often as the Commons of any Colony may withhold supplies, how justifiable soever their refusal may be, in whatever designs the Executive Government may be engaged.

5thly, Because the constitution of the Council having been tried for nearly half a century, has not only failed to produce the advantages expected from it, but, after occasioning the most serious evils, has ended in bringing the legislative operations of the Colonial Parliament to a close; and there seems good ground to hope that the evils now complained of may be remedied by introducing the elective principle into the constitution of this body, under due modifications; but the fourth resolution seems to pledge Parliament against ever introducing that principle, since it is not possible to conceive any circumstances justifying its introduction, if the existing state of things does not.

6thly, Because the spirit in which these proceedings are conceived



is avowedly adverse to the opinions and desires of a vast majority of the inhabitants of Lower Canada ; and the no less plainly avowed object in bringing them forward is, by the authoritative Declaration of Parliament to put down the principles and to thwart the inclinations so generally prevailing among the people of that province.

7thly, Because these proceedings, so closely resembling the fatal measures that severed the United States from Great Britain, have their origin in principles and derive their support from reasonings which form a prodigious contrast to the whole grounds, and the only defence of the policy during later years so justly and so wisely sanctioned by the Imperial Parliament in administering the affairs of the mother country ; nor is it easy to imagine that the inhabitants of either the American or the European branches of the Empire should contemplate so strange a contrast without drawing inferences therefrom discreditable to the character of the Legislature and injurious to the future safety of the State. When they mark with what different measure we mete to 600,000 inhabitants of a remote province, unrepresented in Parliament, and to 6,000,000 of our fellow citizens nearer home, and making themselves heard by their representatives, the reflection will assuredly arise in Canada, and may possibly find its way into Ireland, that the sacred rules of justice, the most worthy feelings of national generosity, and the soundest principles of enlightened policy, may be appealed to in vain, if the demands of the suitor be not also supported by personal interests and party views, and political fears among those whose aid he seeks. While, all men perceiving that many persons have found themselves at liberty to hold a course towards an important but remote province which their constituents never would suffer to be pursued towards the most inconsiderable borough of the United Kingdom, an impression will inevitably be propagated, most dangerous to the maintenance of Colonial Dominion, that the people can never safely entrust the powers of Government to any supreme authority not residing among themselves.

Henry Brougham, Lord Brougham and Vaux.

## DCCXXI.

JUNE 19, 1837.

The Act to amend the Acts for the extension and promotion of Public Works in Ireland, 7 William IV, and 1 Victoria, cap. 21, provided, by the eighth clause, that the Grand Jury should raise money towards defraying the cost of such works, and failing their action, the Treasurer of the County should take the necessary steps. The Act appears to have passed without debate, but the following protest was inserted. The King died on the morning of the 20th.

1st, Because a new and urgent provision is introduced in the Bill, whereby the Grand Juries are compelled to levy money in their Counties for defraying a proportion of the expenses of works purporting to be for the employment of the poor, and undertaken without the approval or consent of the Grand Juries.

2ndly, Because the provision of the Bill which renders the levy of such money compulsory is framed in terms unprecedented, and insulting to the Grand Juries; enacting, that in case those bodies shall refuse or neglect to present the sums necessary for defraying the expense of such works, the County Treasurer shall insert such sums in his warrant, and levy the money off the County at large as if it had been formally presented by the Grand Juries.

William Forward Howard, Earl of **Wicklow**.

## DCCXXII.

JULY 7, 1837.

On the accession of the Queen, the Kingdom of Hanover passed to the Duke of Cumberland, who was also heir presumptive to the British Crown. In order to meet the contingency, in a possible demise of the Crown, of the succession falling to a member of the Royal Family who was absent from the realm, a Bill was introduced to provide for the appointment of Lords Justices in the event above-named, by 7 William IV, and 1 Victoria, cap. 72. Lord Brougham moved words which would have included the Duke of Sussex among these Justices, and spoke strongly against the inclusion of the Chief Justice in the Regency (Lord Denman). Lord Brougham's amendment was negatived. The following protest was inserted, and signed by Lord Brougham only, though twenty other Peers, including the Dukes of Sussex and Norfolk, Lords Holland, Radnor, Minto, Albemarle, and Charlemont, expressed their dissents.

1st, Because the greatest recommendation of the monarchical

form of government is the certainty which it affords of undisputed succession, and therefore everything is most carefully to be avoided which tends, however remotely, to break in upon this governing principle of the regal part of the Constitution. When provision was making by Parliament for supplying the defect in the Royal authority occasioned by the absence from the realm of the King of Hanover, or other next branch of the Royal Family on the demise of the Crown, the right of succession in the Duke of Sussex or other next branch not absent from the realm ought to have been recognised, by naming that branch among the Lords Justices. This could not be done in 1707 (6 Anne, cap. 7), because all the other branches of the Royal Family were then settled abroad, and most of them excluded from the succession; but in 1751 (24 George II, cap. 24), and 1765 (5 George III, cap. 27), the sound principle was acted upon, and the Princes next in succession were placed in the Councils of Regency then formed by the Legislature. The appointment of Lord Justices by the Sovereign, in contemplation of his temporary absence, has no bearing upon the question, both because that is an arrangement of an entirely different nature, and because it is not effected by the authority of Parliament.

2ndly, Because the appointment of the Lord Chief Justice of England, the first criminal Judge of the realm, to be a political functionary of the highest order, exercising the powers of sovereignty, is contrary to every principle of sound policy; it is likewise repugnant to the whole spirit of our judicial system, though sanctioned by precedents in times when the pure administration of justice was far less an object of care than it happily has at this day become—precedents which are in truth the relics of a much more remote and even a barbarous age. It is the more to be lamented that Parliament should now be called upon to sanction such a proceeding, because in 1806, in defending the more reprehensible measure of placing the Lord Chief Justice in the Cabinet, reliance was placed upon the Acts of 1707, 1751, and 1765, as affording legislative authority for uniting in the same person the incompatible functions of Minister of State and Criminal Judge; nor can it now be contended that we are bound by those precedents, for they have in the present measure been departed from in other important particulars, and if they had not, a departure should at any rate have been made in this particular, since the

example of 1806 has shown the evil consequences of Parliamentary sanction being given to so exceptionable an appointment.

Henry Brougham, Lord Brougham and Vaux.

### DCCXXIII.

DECEMBER 12, 1837.

Parliament was prorogued on the 17th of July, and dissolved the same evening. A new election was held and the Houses were summoned for dispatch of business on the 15th of November. On the 11th of December a message was sent to the Houses by the Crown, calling their attention to the provision to be made for the Duchess of Kent, and reminding them of the near relation in which the Duchess stood to the Queen. The debate on the message was taken (Hansard, Third Series, vol. xxxix, p. 966) on the 12th of December, when a sharp passage occurred between Lords Melbourne and Brougham. Lord Brougham inserted the following protest.

1st, Because the House is called upon for a pledge to concur in an arrangement the particulars of which were never disclosed till after the address was moved, and the reasons for which have never yet been stated.

2ndly, Because the same event which placed Her Royal Highness the Duchess of Kent in a new relation to the Throne relieved her from a large expense, in respect of which the last increase of income had been granted by Parliament.

3rdly, Because, while every one must feel the highest admiration of Her Royal Highness's conduct in every relation of life, a conduct universally allowed to be beyond all censure and above all praise, it is the painful duty of statesmen to consult, not their own personal feelings, but the good of the nation whose affairs are committed to their charge; never to depart from those principles of strict economy in spending the public money which have hitherto commanded the confidence of the country, by deserving it; and carefully to avoid making exceptions from wholesome general rules on account of circumstances which are accidental, though fortunate, and a recurrence of which may lead to other exceptions as difficult to be resisted.

4thly, Because the proposed grant, if it did not form part of the arrangement of the Civil List, ought certainly not to have

been proposed until that arrangement was before Parliament, and until the amount of the royal income was distinctly ascertained.

5thly, Because propositions of this kind ought never to be made without an extreme necessity, their inevitable tendency being to impair the veneration justly due to the illustrious personages whom they concern, and to place the members of the Legislature in the painful and invidious position of abandoning their most sacred duty towards the country, or seeming to fail in affection and respect towards the Throne.

Henry Brougham, Lord Brougham and Vaux.

## DCCXXIV, DCCXXV.

DECEMBER 19, 1837.

The Municipal Officers' Declaration Bill, 1 and 2 Victoria, cap. 5, allowed 'Quakers, Moravians, and Separatists,' to hold office in Municipal Corporations, on condition that they made a declaration to the effect that they would not use their influence to injure or weaken the Protestant Church, or the bishops and clergy of the said Church. In the debate on the report it was moved after the words 'Quakers, Moravians, and Separatists' to insert 'and others,' in order to do away with the necessity of taking the oath in any case where the person to whom it was tendered, objected. No record of any debate is preserved in Hansard, and the amendment was negatived.

It produced however two protests.

1st, Because a solemn and public declaration on accepting office in a corporation that the person so accepting it has conscientious scruples against subscribing the declaration required by an Act intituled 'An Act for repealing so much of several Acts as imposes the necessity of receiving the Sacrament of the Lord's Supper as a qualification for certain offices and employments,' and passed in the ninth year of his late Majesty George IV, and that 'he solemnly, sincerely, and truly declares and affirms that he will not exercise any power, authority, or influence which he may possess by virtue of the office he so accepts to impair or weaken the Protestant Church as it is by law established in England, nor to disturb the said Church, or the bishops and clergy of the said Church, in the possession of any right or privileges to which they may be by law entitled,' affords in my judgment ample security against any exercise of municipal authority injurious to the Established

Church in any legal or intelligible sense of that term; in truth, no stronger assurance and no more explicit promise can be devised, or in reason, justice, or charity exacted, from one class of our fellow subjects, for the purpose of allaying the gratuitous suspicions and apprehensions of another.

2ndly, Because by the words proposed to be omitted persons who take the benefit of the Bill are called upon to declare themselves 'Quakers,' 'Moravians,' or 'Separatists,' yet the meaning of those terms is not explained in the Bill; and whatever it may be, a different one from that which the framers of the Bill intended to convey may be conscientiously assigned and understood by those who take the benefit thereof. The classing of persons who feel a scruple in making the declaration prescribed by the ninth of George IV, under the title of Sects, real or supposed, is obviously neither necessary nor useful to give validity or credit to the assurance required to be solemnly and publicly declared and affirmed by the provisions of the Bill.

The designation of Sects who derive no revenues or privileges from the State, and over whose doctrines and discipline the State neither has nor pretends to have nor ought to have any jurisdiction whatever, must in the nature of things be loose, inaccurate, precarious, and uncertain. It may be invidious and offensive, and it is obviously on this occasion unnecessary to the two main objects of the Bill, which are, first to relieve such loyal subjects as are by scruples of conscience excluded from the enjoyment of municipal offices, and, secondly, to prevent such persons when admitted from exercising the powers they so attain to the injury of the Established Church.

It is clear that the assurance contained in the latter part of the declaration in this Bill must in the judgment of its framers be quite sufficient to relieve those who scruple to make the declaration prescribed by the ninth of George IV, inasmuch as unless they were willing to give that assurance the whole Bill would be null and of no effect.

It is equally clear that the said assurance cannot in any degree be weakened or impaired by the person who makes it omitting to give to himself or those with whom he concurs names and descriptions to which no definite or legal meaning is annexed. It follows that if the words proposed to be omitted had been

struck out, the two direct purposes of the Bill, namely, the relief of tender consciences and the protection of the ecclesiastical establishments from all hostile exercise of municipal power, would have been adequately fulfilled; and I am at a loss to discover what advantage can be derived to Church or State, or to the interests of the community, by exacting from conscientious men a designation of themselves or their brethren which amounts to little more than a nickname for the sect to which they are supposed to belong.

3rdly, Because the introduction of these denominations in the declaration may, in my apprehension, lead to vexatious litigation, and such litigation to yet more vexatious inquiries respecting the theological and speculative tenets of individuals; inquiries on principle unjustifiable and in practice injurious to religious liberty.

The right of a man to substitute the declaration proposed by this Bill for that enacted by the Act of George IV might be questioned on the score of his not being, as he professed to be in the declaration, a Quaker, a Moravian, or a Separatist, and the court of law called upon to try his right under the words of the Statute would thus be compelled to pronounce judgment on the character of his religious creed, a jurisdiction which no human, or, at least, no secular tribunal, has the right or the means to assume, and which is more accordant with the spirit of the Inquisition of Rome than consistent with the habits and professions of a Protestant community and a free people.

4thly, Because I adhere to the reason of a dissentient to an amendment in the declaration of the ninth of George IV, which was entered and signed in the Journals of this House on the 25th of April, 1828; and I cannot directly or indirectly sanction the opinion that any particular faith in matters of religion is necessary to the proper discharge of duties purely political or temporal.

Henry Richard Fox Vassall, Lord Holland.

For the three first reasons.

William Pleydell Bouverie, Earl of Radnor.

Henry Brougham, Lord Brougham and Vaux.

Thomas Denman, Lord Denman.

1st, Because the declared purpose of the Bill is to relieve persons whose conscientious scruples prevent them from complying with

the existing law; and it is the avowed principle of the Bill, that no class of men ought to be excluded from civil office on account of their religious opinions; nevertheless the operation of the Bill is confined to three classes of dissenters alone, as if its principle did not extend generally to all.

2ndly, Because this violation of principle, and this injustice towards all who are thus excluded from the benefit of the proposed Act, is not justified by a consideration of the numbers whom it will relieve, these being a very small though respectable body of persons.

3rdly, Because even in the relief proposed to be given to those persons there is a wide departure from the true principles of religious liberty by the declaration of religious belief which is exacted. This declaration is framed upon the assumption that the State has a right to inquire into the spiritual faith of its subjects, a position which has been the stronghold of intolerance in all ages, and may still, if maintained, be used to defend any kind of persecution.

Henry Brougham, Lord **Brougham and Vaux**.

William Pleydell Bouverie, Earl of **Radnor**.

Thomas Denman, Lord **Denman**.

Henry Richard Fox Vassall, Lord **Holland**.

## DCCXXVI.

DECEMBER 20, 1837.

The following protest of Lord Brougham was inserted after the second reading of the Civil List Bill, 1 and 2 Victoria, cap. 2. The debate is in Hansard, Third Series, vol. xxxix, p. 1338. Lord Brougham published his speech in the form of a pamphlet.

1st, Because it is inconsistent with every sound principle of legislation to make provision for so important a branch of the public expenditure as the Civil List by an arrangement which is to last for the life of the reigning Sovereign, inasmuch as, through a period of time most justly desired and reasonably expected to be of long duration, the whole circumstances may vary to which the terms of the arrangement must be adapted, and the sum now allotted may be found either too small or too large for the appointed purpose.

2ndly, Because such variations are more especially likely to happen



through the changes which may take place in the relative value of money and all articles of consumption, by the fluctuating supply of the precious metals, the increased powers of machinery, the improved skill in other respects brought to bear upon manufactures, the progress of agricultural improvement, and, above all, the improvement of our legislation upon the importation of foreign corn, which would at once lower the price of all commodities, and give an entirely different real value to the nominal sum now allotted as necessary for the expenditure of the Court during the period of the Sovereign's natural life, upon an assumption altogether gratuitous, that prices will undergo no change.

3rdly, Because the arrangement is also framed upon an assumption, if possible still more gratuitous, that the habits of society will remain fixed, and that one generation after another will pass away without undergoing any change in those opinions and tastes which must always form the standard of the establishment required to support the royal dignity at any given time, while, if the object of the arrangement be to fix these opinions and tastes in their present frame, or in one more antiquated, and to arrest their future course, it must be confessed that no attempt can be conceived more visionary and chimerical.

4thly, Because all experience hath shown that the Civil List arrangement is only held binding upon one of the parties to it, namely, the country, being always departed from as often as it is found inconvenient for the Crown, and uniformly employed to preclude all revision of its principles or details as often as these are found advantageous for the country.

5thly, Because the last time that a Civil List was settled upon a Royal life of long probable duration, to wit, in 1760, before nine years had elapsed Parliament was called upon to reconsider the arrangement, and above half a million was paid to defray the arrears of the Royal establishment, and in eight years more above six hundred thousand pounds were again required to supply a like deficiency; not to mention various other similar applications during the remainder of the same reign, all of which clearly shows that what is constantly treated as a compact between prince and people, when the interests of the latter are concerned, is as invariably deemed to impose no obligation whatever upon the former party when his interest requires the compact to be disregarded.

6thly, Because that which experience has proved to have been unwise and improvident nearly eighty years ago ought to be still more jealously regarded at the present day by those whom the Constitution has appointed to be as well the guardians of the people as the councillors of the Prince ; for the Public Debt has during that long interval of time been increased nearly tenfold, the Peace Establishment been more than quadrupled, and the sums raised from the country are above five times as large, and weigh upon its industry and resources with a pressure against which even its increased population, capital, and skill can with the greatest difficulty maintain a struggle.

7thly, Because the course obviously recommended by every rational view of the subject would have been to pass the Bill for a limited number of years, when the whole matter might again have come under the consideration of Parliament ; and this would not have been so great a departure from ancient usage as has been made upon former occasions, and even in the reign of Charles II, when the devotion of all men to the Throne, and the dread of change, appeared to have reached their greatest height.

8thly, Because the unexampled haste with which this measure has been carried through both Houses has prevented the information from being in possession of either which it was absolutely necessary to have before it could be at all known what the revenue of the Crown will be after the grant is made ; in particular, we are entirely ignorant of the sums actually advanced from the Duchies of Lancaster and Cornwall, and only are aware that those revenues are very considerable, that they are managed at a heavy cost, and that, as the law now stands, and as this Bill leaves it, the larger portion of them may be anticipated at any time by way of fine, to the immediate profit of the reigning Sovereign, and the impoverishment of the future Heir Apparent, for whose support they are believed to have been given, but whose expenses, being always defrayed in by far the greater proportion by the country, the revenues in question ought to be placed under the management of responsible functionaries, and administered for the public benefit.

9thly, Because the like haste has been shown in passing this Bill's provision regarding Pensions before the Committee now engaged in considering that subject has made any Report, and when it is

impossible to foretell how far its inquiries may bear upon the policy of the proposed arrangement.

10thly, Because ample time might have been afforded for considering the whole of this important measure, and for passing it into a law, with all the requisite information before us, in such a matured form and at such an early period as might have testified the respect justly due to the Sovereign, and satisfy the duty we owe to the people, if the Parliament had been assembled at such a period as the other interests of the Empire seemed plainly to require, more especially if as early as it has been summoned in past times, when the work of war was in hand, and required supplies of men and money, it had now been called together for the more blessed labours of peace and conciliation, to retrace the steps of oppressive injustice, to save the remote dominions of the Queen from the horrors of civil warfare, and to spare the mother country the hard necessity of bearing a part in such a conflict.

Henry Brougham, Lord Brougham and Vaux.

## DCCXXVII, DCCXXVIII.

FEBRUARY 8, 1838.

The greater part of the time of both Houses after the Christmas recess was occupied in debating on the affairs of Lower Canada, in which the rebellion of Papineau had just occurred, and allusion had been made to the facts in the Queen's Speech. The Government introduced and carried a Bill (1 and 2 Victoria, cap. 9) to suspend the powers of the Legislature of Lower Canada, and to make temporary provision for the government of the colony till the 1st of November, 1842. Mr. Roebuck, as agent for the colony, was heard, on the 22nd of January, at the Bar of the House of Commons, against the Bill (Hansard, Third Series, vol. xl, p. 265), when it was committed by 262 to 16.

The following protests were entered against the passage of the Bill in the Lords.

1st, Because it must be presumed that the constitutional rights conferred upon the people of Lower Canada by the British Legislature were given them with the full knowledge that the House of Assembly in that province would, and with the intent that it might, thereby be enabled to exercise that control over the executive power which the Commons of Great Britain are by their undoubted privileges enabled to exercise over the executive power in the mother country.

2ndly, Because this measure deprives the people of Lower Canada, not only of the rights which were so given them by the British Legislature, but of the rest of the Constitution which they had previously enjoyed.

3rdly, Because the Bill being founded upon the assumption that such privation is just, it appears to us that such assumption is erroneous.

4thly, Because it appears to us that in determining the justice or injustice of a penal measure against a whole community the Legislature is not confined by those technical rules which govern courts of law, but is bound to institute a larger inquiry, and that therefore it is necessary, not merely to refer to the recent acts of that community, but to examine into the causes of those acts, and to ascertain their origin, which can only be effected through a careful investigation of the successive steps by which the accused party has proceeded, and of the circumstances by which it has been gradually led on to those proceedings which furnish the immediate ground of the penal measure.

5thly, Because such investigation has satisfied us that the origin of those proceedings is to be found in the early maladministration of the colony by those branches of the Government which were more immediately connected with the mother country, and therefore it is not just to deprive the colony, even for a time, of its political rights, upon the alleged ground of recent misconduct.

6thly, Because it appears to us that this is only the first of a series of measures which may involve the nation in great difficulties, an opinion countenanced by the admission made in debate, that her Majesty's ministers were prepared to apply to Parliament for an increase of our military forces, in which admission is obviously involved the further admission, that even according to the expectations of the authors of this measure it may not improbably occasion an armed resistance in the colony.

7thly, Because, finally, we are determined not to incur the heavy responsibility of a measure which may involve our country in civil war.

Charles William Fitzwilliam, Earl Fitzwilliam.  
Henry Brougham, Lord Brougham and Vaux.

1st, Because it appears, by a despatch from the Earl of Gosford,

dated the 23rd of December, 1837, that the measures adopted for putting down the revolt in Lower Canada have been crowned with entire success; that the principal instigators and leaders have been killed, taken, or forced into exile; that the revolutionary press is no longer in existence; that the disposition of the Roman Catholic clergy is favourable; that numerous offers of service have been made by large portions of the population in various parts of the province, to enrol themselves in volunteer corps for the defence of the Government; and that loyal addresses are pouring in from the French Canadian population in all parts of the province, expressing their fidelity to the Queen, and their attachment to the British connexion, and strongly reprobating the selfish ambition and treasonable designs which have ruthlessly involved one of the fairest portions of the country in all the horrors of civil war.

2ndly, Because, therefore, the averment in the preamble of the Bill, that in the present state of the province of Lower Canada the House of Assembly cannot be called together without serious detriment to the interests of that province, is not only not supported by facts, but negatived by the inference to be drawn from the latest facts of which the House is in possession.

3rdly, Because the conduct of the House of Assembly being the alleged ground of the Bill, and certain members of that Assembly who had mainly influenced its proceedings having brought upon their country all the horrors of civil war, it is not just to suspend the Constitution of the province, with a view to its alteration by an Act of the Imperial Parliament, without first dissolving the House of Assembly and thus affording to the people the opportunity of showing that they have withdrawn their confidence from such of their late representatives as have proved unworthy of it, and that they do not approve the acts of the House of Assembly which are deemed to justify the Bill.

4thly, Because the Bill gives to the Governor and Council power to make, with certain exceptions, all such laws or ordinances as the legislature of Lower Canada, as now constituted, is empowered to make, and thereby places at the disposal of the Governor and Council all the monies heretofore appropriated by the House of Assembly, as well as all the monies heretofore appropriated by the Crown, thus making much more extensive alterations in the Constitution, when order is restored, than the Executive Council

deemed it expedient to recommend when agitation distracted the province and paralyzed its Government.

5thly, Because, from the experience of last year, there is reason to fear that this measure will not only revive the hostile feelings of those who have hitherto opposed the Government, and increase their means of agitating the province, but at the same time excite the strongest disapprobation on the part of those who are most attached to British connexion, and who most reprobate the past proceedings of the House of Assembly.

6thly, Because the events which have taken place on the frontier of the United States show the expediency of effecting at the earliest period a permanent and therefore a conciliatory settlement of all questions relating to Lower Canada ; and the Bill interposes a long period of despotism before any proposition for such settlement can be entertained.

7thly, Because it is impossible honestly so to modify the electoral franchise and the electoral districts in Lower Canada as to deprive the French population of that province of the power of electing the majority of the Legislative Assembly, and therefore any new assembly which may be called together hereafter must be elected by a constituency essentially the same as that which elected the present Assembly whose conduct is alleged to justify the Bill.

8thly, Because it is consistent with reason and experience that the long arbitrary discontinuance of the use of a Parliament will, when that Parliament is at last called together, greatly increase instead of diminishing the difficulty of carrying on the Government of which it is a part.

9thly, Because the Bill thus postpones the calling of a new Parliament to a period necessarily more unfavourable than the present ; and occupying the interval by a coercive despotism, tends at once to alienate the affections of the people of Lower Canada, to engage the sympathy of the people of the United States in their favour, and to bring upon this country the accumulated evils of civil and of foreign war.

10thly, Because if it be necessary to make alterations in the Constitution of Lower Canada, Parliament is already in possession of ample information, the result of various recent inquiries, upon which, collected in times of tranquillity, it would be much safer, after mature deliberation, to legislate, than upon new opinions,

to be collected from parties still under the exasperation of civil contest; and to suspend the Constitution for more than two years, for the purpose of gathering such opinions upon the nature and extent of the reform assumed to be required, is calculated to create agitation, where it is most desirable to re-establish tranquil habits under settled and free Government.

Edward Law, Lord Ellenborough.

For the sixth, seventh, eighth, ninth, and tenth reasons—

Henry Brougham, Lord Brougham and Vaux.

### DCCXXIX.

MAY 21, 1838.

An Act for the more effectual relief of the destitute poor in Ireland (1 and 2 Victoria, cap. 56), was read a second time on the 21st of May. The Act contains 125 clauses. The debate on the second reading of the Act is to be found in Hansard, Third Series, vol. xliii, p. 1. The Marquis of Londonderry moved that it be read that day six months, in which he was supported by Lord Clanricarde. The second reading was carried by 149 to 20.

The following protest was entered.

1st, Because the Bill giving to Commissioners of the Crown a power arbitrarily to tax the owners and occupiers of land in Ireland contains an enactment such as the British people never have endured and would never submit to, and establishes a principle of legislation for Ireland equally dangerous and unconstitutional.

2ndly, Because a tax pressing entirely and exclusively upon the owners and occupiers of land for a purpose which if it be beneficial to any must be beneficial to all, and more advantageous to other than to landed proprietors, is essentially partial and unjust, and in the actual circumstances of Ireland would be ruinous to many, and highly injurious to the great body of proprietors of hereditary estates.

3rdly, Because this Bill, founded as it is upon vague and fallacious assumptions, wholly at variance with the estimates of the population, poverty, and resources of Ireland, calculated upon the best statistical data that exist by the Irish Poor Law Inquiry Commissioners, holds out to the lowest class of the Irish people hopes and expectations which in our opinion can never be realized, and which it is unwise to excite, and it may be dangerous to disappoint.

4thly, Because the appointing paid guardians to distribute the relief proposed to be afforded will deprive the gentry of Ireland of all grace or favour in the eyes of those who may be so relieved, and of their neighbours, and will tend to aggravate the evils which already exist in the social relations of different classes in Ireland.

5thly, Because the clergymen of different religions in Ireland, the Irish land owners, land occupiers, merchants, traders, and operatives, appear to be almost unanimously opposed to the most essential and prominent enactments of this Bill.

6thly, Because the two classes of destitute poor in Ireland, viz. the able-bodied and the impotent, differ so widely as to the causes of destitution, the nature and extent of relief required, and to the evils to be guarded against in the administration thereof, that we do not think they can be advantageously comprehended in one enactment; and as the relief of impotent poor will require a large but not an indefinite expenditure, it would be wise and prudent to see how well the owners and occupiers of land in Ireland can bear a tax for that purpose before a more extensive, indefinite, and probably enormous burden be imposed upon them.

Ulick John de Burgh, Lord Somerhill (Marquis of Clanricarde).  
Charles William Stewart, Earl Vane (Marquis of Londonderry).

## DCCXXX, DCCXXXI.

JULY 19, 1838.

Lord Denman moved the third reading of a Bill for permitting affirmations to be made instead of oaths in certain cases. The Bill had been read a second time on the 5th of July, without debate or division. It was now rejected by 32 to 16. Immediately afterwards, Lord Wicklow introduced another Bill, which ultimately passed both Houses, 1 and 2 Victoria, cap. 77, permitting 'persons who had been Quakers and Moravians to make affirmations in lieu of oaths.'

The following protests were entered against the rejection of Lord Denman's Bill.

1st, Because it is one of the chief duties of civil government, and the main object of its institution, to administer justice between man and man; and the discovery of truth being essential to the dispensation of justice, any form or rule whatever which practically excludes the evidence of conscientious men, who can bear testimony to the facts in dispute, is injurious to the interests of society, and contrary to the rights of the people in a free community.



2ndly, Because it is admitted that there are respectable and deserving subjects in this Kingdom who are neither Quakers, Moravians, nor Separatists, and who yet entertain conscientious objections to taking an oath in the forms now required in our Courts of Law, even when exacted by the civil authorities; and it is manifest that wherever such persons have been solely cognisant of facts, the proof whereof is necessary to the protection of the property, liberty, or lives of suitors, plaintiffs, or defendants in her Majesty's Courts, the said suitors, plaintiffs, and defendants are, by the operation of the present practice, deprived of the benefit of testimony to which they are in all reason entitled; and thus the discovery of truth is, without advantage to the State or the community, and with signal detriment and injury to unoffending individuals and suitors, impeded and prevented.

Henry Richard Fox Vassall, Lord **Holland**.

Thomas Denman, Lord **Denman**.

Lucius Bentinck Cary, Lord **Hunsdon** (Viscount Falkland).

William Lewis Hughes, Lord **Dinorben**.

1st, Because the exclusion of trustworthy evidence from judicial inquiries is a great and serious evil, manifestly tending to obstruct and defeat the due administration of the laws.

2ndly, Because the principle of substituting an affirmation for an oath, in deference to conscientious scruples, was sanctioned by the law of England in the first year of King William III, and has been since widely extended, both by legislative enactment and judicial decision, without any ill consequence whatever, and with signal advantage to the interests of truth and justice.

3rdly, Because it is notorious that divers subjects of her Majesty, whose conduct, character, and known principles entitle them to the utmost respect and confidence, are now not only placed out of the protection of the law, but exposed to severe penalties, because they deem it unlawful to swear, and do not belong to any of the denominations on which the privilege of affirming in lieu of an oath has been bestowed.

4thly, Because reason and consistency as well as sound policy seem to require, that the same privilege should be given to all whose testimony is now for the same reason inadmissible.

5thly, Because the Affirmation Bill appeared to contain abundant guarantees for the sincerity of those who might allege their opinion

of the unlawfulness of taking an oath, in order to avail themselves of the privilege of affirming.

6thly, Because the only arguments used in opposition to the Bill appear to me of little weight, inasmuch as the apprehended abuse might be practised with greater care under the existing law, and yet has never once been suspected; the assumption that persons solemnly affirming would be less heedful of the truth than those who swear is not only contradicted by experience, but may be thought to countenance (however undesignedly) the vulgar and pernicious error, that to utter falsehood is no breach of religious duty, unless it be accompanied with an oath; and the opinion that evidence in general would be deteriorated by permitting the affirmation of such as deem oaths unlawful appears to me to stand upon no ground of reason or probability.

Thomas Denman, Lord Denman.

Henry Richard Fox Vassall, Lord Holland.

Lucius Bentinck Cary, Lord Hunsdon (Viscount Falkland).

William Lewis Hughes, Lord Dinorben.

## DCCXXXII.

JULY 30, 1838.

A Bill had been carried through the House of Commons by Serjeant Talfourd, on the 23rd of May, by a considerable majority, giving rights of access to her children in the case of a mother who might be separated from her husband. It was opposed by Sugden in the Lower House. Lord Lyndhurst took charge of the Bill in the Lords, and on the second reading was opposed successfully by Lord Brougham. See Hansard, Third Series, vol. xliv, p. 772, the Bill being thrown out by a majority of two, 11 to 9.

The following protest was entered.

1st, Because nature and reason point out the mother as the proper guardian of her infant child; and to enable a profligate, tyrannical, or irritated husband to deny her, at his sole and uncontrolled caprice, all access to her children, seems to me contrary to justice, revolting to humanity, and destructive of those maternal and filial affections which are among the best and surest cements of society.

2ndly, Because, although it may be true, as alleged in debate, that women are by the governing principle of the law of England

subjected in various other matters affecting their property, character, and happiness to great and unequal hardships, such consideration furnishes, in my judgment, very inconclusive ground for refusing them relief from a wrong which the sound discretion of a judge might, without injury to any one, equitably and promptly redress.

3rdly, Because whatever was exceptionable in the time, form, or mode of relief proposed in the Bill might have been corrected in the Committee; and I was unwilling, before such correction of supposed anomalies and defects in the details had been attempted, to forego, on account of them, an object so just, important, and salutary as the protection of that intercourse which nature herself seems to enjoin between a parent and her child from all capricious and vindictive interruption.

Henry Richard Fox Vassall, Lord **Holland**.

John Copley, Lord **Lyndhurst**.

George Granville Leveson Gower, Duke of **Sutherland**.

### DCCXXXIII.

JULY 31, 1838.

The Irish Tithe Bill of 1838, 1 and 2 Victoria, cap. 109, abolished compositions and substituted rent charges on possessors of "perpetual estates or Interests." The Act abandoned all attempts to recover advances made to Incumbents under 3 and 4 William IV, cap. 100.

The following protest was entered against the second reading.

1st, Because, beside many other grounds of objection, the Bill is open to this, that it converts into a gift the large sum originally advanced as a loan to the Irish clergy, contrary to the faith upon which the country was induced to permit the advance, contrary to the true principles of general religious liberty, and contrary to the spirit of our Constitution, compelling men to pay for a Church from which they conscientiously dissent, giving to the clergy of the small minority of the Irish people an indemnity for the loss of their appointed dues at the expense of the vast majority, and making those who have broken no law and withheld no dues answerable for the conduct of such as have refused payment of what the law, be it a good or a bad law, still unrepealed, has prescribed.

2ndly, Because there is no adoption in this Bill of the important

principle of appropriation ; but rather an abandonment of that principle if not a disapproval of it in substance and effect.

Henry Brougham, Lord Brougham and Vaux.

Robert Dundas Duncan Haldane, Earl of Camperdown, for the first reason.

## DCCXXXIV.

AUGUST 15, 1838.

By 1 and 2 Victoria, cap. 120, the ancient custom of exacting a duty for the tin dug in the counties of Cornwall and Devon was abolished, a charge equal to the average income being made payable to the Crown in lieu of these duties out of the Consolidated Fund. Duties amounting to 15s. the hundredweight on tin, and 10s. on tin ore, were imposed by the Act.

The following protest was entered against the third reading of the Bill.

1st, Because the peculiar enactment of the laws which regulate the revenue of the Duchy of Cornwall by the Crown and by the Duke of Cornwall respectively, render it the especial duty of the House of Lords to give their vigilant attention to all propositions and Bills by which the revenues of the Duchy of Cornwall can be affected.

2ndly, Because no information has been given to the House of the necessity for the alteration made by this Bill, nor of the details of the same, nor of the provision to be made in future for the support of the dignity of a Duke of Cornwall, notwithstanding that it has been the invariable practice of the House, and it is their duty, to inquire minutely into the circumstances attending the sale and reconveyance to the Crown of regalities granted heretofore to subjects, and to take care that the interests of those in remainder should be provided for.

3rdly, Because this House have not had before them even the information given to the other House of Parliament under whose consideration the Bill had been for a few days.

4thly, Because this House have been informed by the best authorities that the two last illustrious possessors of the Duchy of Cornwall would not have given their consent to the arrangement made by this Bill, one of whom was in his own right Duke of Cornwall for sixty years, and either in his own right or in right of his Crown administered its affairs for more than half a century.

5thly, Because no inconvenience could have resulted to the interests of any from the postponement for a few months of the arrangements under this Bill, in order to give time and opportunity to the House of Lords to consider of interests so important as those affected by it.

Arthur Wellesley, Duke of Wellington.

John Thomas Freeman Mitford, Lord Redesdale.

## DCCXXXV.

MARCH 11, 1839.

John Joseph Lawson was printer of the Times newspaper, and nominal defendant in an action of damages brought by one Joel Samuel Polack for libel. The charge was that the newspaper had quoted and commented on certain evidence given to the Lords by Polack and Tawell on the 6th of November. Lawson petitioned the House that they would be pleased to allow the evidence given by these persons to be brought before the Court at the trial, as he intended to justify, and as the original evidence was necessary to his case. The House appointed a Committee to report on the petition, who reported accordingly that they saw no reason to comply with its prayer. One of the Committee however, Lord Lyndhurst, brought the matter before the Lords on the 11th of March, when the House by 31 to 18 decided to agree with the prayer.

The following protest was inserted.

1st, Because it is neither consistent with the character of this House nor with justice, that evidence injurious to the reputation of individuals having been compulsorily obtained from witnesses before a committee of this House, such evidence should be published in print, in violation of the standing order of this House, and the publisher thereof be assisted by this House in his defence against an action for libel arising out of such publication.

2ndly, Because the precedent thus established, of supplying, by the permission of this House, the best evidence of the proceedings of this House, where such proceedings have incidentally come before a court of law, may eventually lead to the pernicious consequence of deterring witnesses from speaking the whole truth when examined in this House, and even of impairing the freedom of speech in this House, which is essential to the discharge of parliamentary duty.

Edward Law, Lord Ellenborough.

George Kenyon, Lord **Kenyon**.  
 Henry Richard Fox Vassall, Lord **Holland**.  
 Cropley Ashley Cooper, Earl of **Shaftesbury**.  
 Gilbert Eliot Murray Kynynmound, Earl **Minto**.  
 Henry Fitzmaurice Petty, Marquis of **Lansdowne**.

## DCCXXXVI.

JUNE 4, 1839.

A Church Discipline Act was introduced into the Lords on the 12th of April by the Chancellor, and carried through the Upper House. It received however such extensive alterations, and came into Committee of the Lower House at so late a date, that Lord Russell moved the discharge of the order for reading it on the 14th of August.

The following protest was entered against going into Committee.

1st, Because, though the ecclesiastical Judges derive their power in *foro exteriori*, even in spiritual matters, from the State, their authority is independent of, and pre-existent to, the sanction of the temporal law, which merely adds temporal consequences to the ecclesiastical censures, the infliction of which is a part of the power of the keys vested in the Church by its Divine founder, and exercised by it in the earliest ages: it follows, therefore, that the State, though it may refuse to add a civil sanction to the exercise of the spiritual authority, cannot either grant that authority, which does not spring from any human source, or take it away from any one of those, in whom the Divine constitution of the Church has vested it. Consequently this Bill, prohibiting in every diocese the exercise of all spiritual jurisdiction, so far as any spiritual censure on a criminal clergyman is concerned, except that of the Court of Arches, doth exceed the power of human law, inasmuch as it affects to deprive bishops of that essential authority, and inherent right, which appertain to their sacred office by the Word of God; and which they, at their consecration, have promised and vowed, that they, by the help of God, will faithfully and duly exercise, by correcting and punishing such as be criminal within their respective dioceses.

This fundamental objection to the Bill is not removed by the 26th clause, which professes to save 'any authority over the clergy, which bishops may now according to law exercise personally and without judicial process.' For, judicial process is essential to

the due exercise of episcopal authority, which, without it, ceases to be judicial, and must become either arbitrary or utterly ineffective. It is prescribed by the Apostle: it was used and practised in the Church for three hundred years before Christianity became the religion of any State, or its laws and discipline were enforced by any human government. Its necessity is recognized and asserted by all the soundest and ablest divines of the Reformed Church of England, who have written on the nature of the visible Church, by Bishops Jewell, Bilson, Hall, Bramhall, Stillingfleet, Jeremy Taylor, and Beveridge, by Hooker, Field, Hammond, and many other luminaries of that age in which theological learning in England was most diligently and most successfully cultivated, not to mention other authorities of the last and the present centuries.

2ndly, Because, to prohibit judicial process, even in the domestic forum of the bishop, and thereby, as was admitted in debate, to extinguish all episcopal jurisdiction, on the plea that the Church is now protected by the State, is to confound things essentially distinct—it is, in effect, however laudably intended, to betray the Church, and to mislead the State. On the one hand, it forbids the exercise of the most sacred rights and duties of those to whom they are committed by the Word of God (being thus an act of direct persecution), and professes to transfer them to another, whom no human law can empower to exercise them, in some of the highest particulars enumerated in the Bill: such are excommunication, deposition, and degradation; judgments which cannot be pronounced by any but those to whom the Divine Head of the Church hath committed the keys of his kingdom and the power to bind and to loose.

On the other hand, while the Bill thus seeks to arm a layman, by authority of Parliament, with that spiritual sword, which not the highest lay potentate on earth can wield, it hides from the Sovereign, and from the great council of the nation, that solemn duty which ‘He by whom Kings reign and Princes decree justice’ hath inseparably annexed to Christian magistracy—the duty of upholding and enforcing the essential discipline of His Church;—a duty, which this State, so long as it acknowledges our own apostolic branch of that Church, can only discharge by sustaining and strengthening, in all things necessary, the government by bishops—

a duty which the Sovereigns of this realm have ever hitherto religiously observed, and which the Legislature hath repeatedly recognized in its most solemn Acts, especially in that great Statute of 24 Henry VIII, cap. 12, which most eloquently, yet most accurately, sets forth the constitution of this imperial realm 'governed by one supreme head under whom a body politic, compact of all sorts and degrees of people, divided in terms and by names of spirituality and temporality are bound to bear, next to God, a natural and humble obedience,' 'that part of the said body politic called the spirituality having always been thought, and being also, at this hour, found sufficient and meet of itself, without the intermeddling of any exterior person or persons, to administer all such offices and duties, as to their rooms spiritual doth appertain:' and again, in those more modern Statutes, which are, as it were, the landmarks of the constitution, the 1 William and Mary, cap. 6, framed by Mr. Somers and the other enlightened patriots of that day, and embodying the contract between the Sovereign and the people in the coronation oath; of which contract the 'preserving the rights and privileges of the bishops and clergy' are a prominent part:—and the Act of Union with Scotland, reciting and confirming, as a fundamental article of that union, the Act for securing the Church of England, in which it is especially provided, that every King or Queen, coming to the royal government of the Kingdom of Great Britain shall take and subscribe an oath that he will maintain to the utmost of his power, not only 'the doctrine and worship' but 'the discipline and government of the Church of England.'

In accordance with this language of the laws have been the solemn declarations of our most illustrious Princes, claiming indeed, as is their due by the laws of God and man, to be 'over all persons and in all causes both spiritual and temporal supreme,' yet disclaiming all authority of ministering God's Word, of which the power of the keys and of binding and loosing is an essential part; in a word, having both the right and the duty to rule all estates and degrees of men committed to their charge by God, and restrain with the civil sword the stubborn and evil doers.

. 3rdly, Because the Dean of the Arches, holding only a limited commission from his Grace the Archbishop of Canterbury, which commission does not extend to original jurisdiction in any diocese



whatsoever, would not have even the semblance of ecclesiastical authority to exercise the powers proposed to be given to him by this Bill. Neither can this fundamental defect be supplied by any new and enlarged commission from the Archbishop, who hath not himself a right of original jurisdiction (except in cases of nullities) in any other diocese than his own, such right being contrary to the laws of the Primitive Church, always hitherto held sacred—contrary to a Canon of the Council of Nice, acknowledged by the laws both of the Church and of the State of England to be the first Œcumenical Council;—contrary to the Canonical Law of England, as expounded even by Lynwood the highest authority for interpreting that law, himself official principal of the Archbishop of Canterbury of his day, who expressly says ‘the Archbishop cannot depute officials to hear causes in the diocese of any of his suffragans; for, as the Archbishop himself cannot constitute an official in the diocese of another bishop, neither can he there exercise any thing which concerns judicial powers.’ Indeed the assumption by the Archbishop of Canterbury or his officers of original or concurrent jurisdiction, in another diocese, hath been repeatedly adjudged in the highest Courts in England to be an usurpation, founded solely on his ancient claim of being *Legatus natus* of the Pope. So that, the power which the present Bill recognizes either as existing or as possible to exist in the Court of the Archbishop of Canterbury, that Court cannot really be competent to exercise, unless the supremacy, claimed by the Pope, do indeed reside, within this Church, in the Archbishop of Canterbury.

4thly, Because by an unprecedented and unprincipled assumption of power, the Bill professes to subject the clergy of the province of York, both those of the com-provincial bishops therein, and even those of the Archbishop and Metropolitan himself of that province, to the jurisdiction of the Court of the Archbishop of Canterbury; whereas the province of York and the jurisdiction of the archbishop and bishops thereof, are as wholly independent of the Archbishop of Canterbury, as they are of any prelate in the most remote corner of the Christian world.

5thly, Because the only advocate of the Bill who discussed its provisions, admitting in several important particulars that great principles were violated by it, rested its justification solely on the

practical benefits sought thereby; thus, in conformity with that fatal policy, which has been the bane of our times, proposing to sacrifice, in a matter of this high religious nature, principle to expediency; although the highest authority in the Church, by just before declaring that the actual result even of the present most defective state of ecclesiastical discipline is such as admits of little improvement, through the operation of law, in the general tone of clerical manners, had precluded even the plea of any urgent necessity for making the sacrifice.

6thly, Because on the soundest considerations, even of expediency itself, the provisions of the Bill are open to just objection; inasmuch, as they have a direct tendency to destroy, or most grievously to impair, the wholesome authority of bishops, by making them, instead of judges, to become merely the prosecutors of their clergy before a lay tribunal; or, it may be, to employ them as executioners of the sentences of that tribunal.

7thly, Because, although it may be true, that bishops are not likely to be skilled in legal science, they must be more competent, than laymen can be expected to be, to decide those questions of ecclesiastical discipline, which, in the exercise of their spiritual jurisdiction, would most commonly come before them. As ecclesiastics they must be most competent to decide, whether and in what degree the ecclesiastical duties of a clergyman have been violated; more particularly, because many things are criminal in a clergyman, which in a layman would be merely indecorous, and not always even indecorous; and many things are punishable by the Canon Law, and the principles of ecclesiastical discipline, to which no principle of temporal law is even applicable.—Again, and in a still higher degree, bishops must be more competent than lay judges, to decide in cases, where the question relates to the soundness of doctrines taught or sanctioned by a clergyman; especially, as the constitution of the Church has provided him with an ecclesiastical council to assist him in his decisions; and meanwhile he can experience no difficulty in obtaining the best legal advice, enabling him to dispose of questions of law as satisfactorily as any ordinary Court.

8thly and lastly, Because, if this Bill shall pass into a law, that most estimable and venerable body of men, the clergy of England and Wales, will be reduced to a worse condition than any other

class of her Majesty's subjects; being made liable to answer to charges, affecting their highest religious and civil rights—their feelings and characters as men—their functions as Christian ministers—before a remote judicature, which, because it is remote, can never inspire confidence; but will be found in practice, at once to prevent the prosecution of real delinquency, and to rob calumniated innocence of that best protection, the known characters of the accused and the accusers, as well as of the witnesses, by whom the accusation is sustained or repelled.

Henry Philpotts, Bishop of Exeter.

### DCCXXXVII.

JULY 4, 1839.

Under 2 and 3 Victoria, cap. 26, considerable powers were given to the Governor and Council of the Island of Jamaica. A lengthy debate was taken in the Lords on the measure during its passage on the 1st, 2nd, and 4th of July. In the course of the debate, Lord Brougham proposed to prohibit the Governor from continuing or renewing any money bill, or appropriation of money bill. This amendment was rejected and the following protest entered.

1st, Because Acts of this kind set all considerations of sound policy, of generosity, and of justice at defiance, and will most likely be regarded as indicating a design to crush whatever spirit of opposition to the executive government may at any time and for any cause show itself in any portion of the colonial provinces.

2ndly, Because it is the fundamental principle of the British Constitution, which was intended to be established in the chartered colonies by the common law of the Constitution, and was finally promulgated in 1778, that no taxes whatever shall be levied, and that no part of the taxes levied upon the people shall be applied to any purpose whatever, without the consent of their representatives in Parliament; and this controul over the revenue ought in an especial manner to be vested in the people of the colonies, seeing that it never can give them the same unlimited influence which it confers upon the people of the parent state; for if supplies are withheld by the Commons of England on account of grievance, the Crown has no other resource, and the grievance must be redressed; whereas if the Commons of the colony withhold supplies

for the like reasons, the Crown cannot by this proceeding be obliged to redress the grievance as long as the Parliament of the mother country is willing to furnish the funds required.

3rdly, Because the interfering with the revenue placed by the British Parliament at the disposal of the colonial assemblies without their consent is wholly subversive of the afore-mentioned fundamental principle, and directly contrary to the wise and salutary provisions of the Act passed in 1778; nor does it at all signify that this is said only to be done upon the present occasion, and that the rights of the colonial Parliament are represented as left unimpaired; the precedent of 1839 will ever after be cited in support of such oppressive proceedings, as often as the Commons of any colony may withhold supplies, how justifiable soever their refusal may be, or in whatever designs the executive Government may be engaged.

4thly, Because the spirit in which these proceedings are conceived is avowedly adverse to the opinions and desires of a vast majority of the inhabitants of Jamaica, and the no less plainly avowed object in bringing them forward is by the authoritative declaration of Parliament to put down the principles and to thwart the inclinations so generally prevailing among the people of that colony.

5thly, Because these proceedings, so closely resembling the fatal measures that severed the United States from Great Britain on this day three score years and three, have their origin in principles and derive their support from reasonings which form a prodigious contrast to the whole grounds and the only defence of the policy during later years so justly and so wisely sanctioned by the Imperial Parliament in administering the affairs of the mother country. Nor is it easy to imagine that the inhabitants of either the American or the European branches of the empire shall contemplate so strange a contrast without drawing inferences therefrom discreditable to the character of the Legislature and injurious to the future safety of the State. When they mark with what different measure we mete to three hundred thousand inhabitants of a remote province unrepresented in Parliament, and to six millions of our fellow citizens nearer home and making themselves heard by their representatives, the reflection will assuredly arise in Jamaica, and may possibly find its way into Ireland, that the

sacred rules of justice, the most worthy feelings of national generosity, and the soundest principles of enlightened policy, may be appealed to in vain, if the demands of the suitor be not also supported by personal interests and party views, and political fears, among those whose aid he seeks; while all men, perceiving that many persons have found themselves at liberty to hold a course towards an important but remote province which their constituents never would suffer to be pursued towards the most inconsiderable burgh of the United Kingdom, an impression will inevitably be propagated most dangerous to the maintenance of colonial dominion, that the people can never safely intrust the powers of government to any supreme authority not residing among themselves.

6thly, Because nothing can be more contrary to the spirit of the Emancipation Act than taking the earliest occasion of suppressing the Constitution of a colony chiefly inhabited by emancipated slaves, and thereby depriving the negroes of the constitutional privileges which all freemen have heretofore enjoyed, as soon as they became themselves for the first time free.

7thly, Because if any such measure were justified by being shown to be necessary, which this is not, the mode pursued in the Bill is the worst that could be devised, the fitter and safer course being an appeal to the wisdom of Parliament, and not the devolution of dictatorial power to a governor in council.

Henry Brougham, Lord **Brougham and Vaux**.

George Kenyon, Lord **Kenyon**.

William Forward Howard, Earl of **Wicklow**.

John Colville, Lord **Colville**.

Edward Jervis Jervis, Viscount **St. Vincent**.

## DCCXXXVIII.

JULY 5, 1839.

On this day the Archbishop of Canterbury moved a series of resolutions (Hansard, Third Series, vol. xlviii, p. 1234 sqq., and 1254). These resolutions with some modifications were agreed to; the first by 229 to 118.

The following protest was entered.

1st, Because the Church of England as by law established has been for three centuries in possession of great wealth, and being entrusted with the education of the people has not performed its

duty in that respect, as has been proved by the gross ignorance of the peasantry, more particularly in the vicinity of Canterbury.

2ndly, Because the Church of England established in Ireland, infinitely more wealthy than the Church in England, had for seventy years and upwards the disposal of enormous parliamentary grants and of other vast funds for the support of charter and other schools into which a catechism was introduced teaching the Roman Catholic children that their parents were wicked and damnable heretics, thereby destroying the most endearing duties of social life; and the charter schools were ultimately and of necessity closed in consequence of their proved immorality and the pollution in some instances of the infant scholars by their masters.

Valentine Browne Lawless, Lord Cloncurry.

## DCCXXXIX, DCCXL.

JULY 25, 1839.

The two following protests were entered against the third reading of the Church Discipline Bill.

Because, owing to the long pleadings and the mode of taking evidence in the ecclesiastical courts, the expense and delay of those courts is so great that many clerks who have misconducted themselves have remained unpunished, in consequence of no person being willing to bear those expenses and delays.

Because from the first establishment of the English Church the duty of deciding on charges made against clerks has belonged to the bishops; that duty cannot be taken from them without greatly diminishing the utility of and the respect in which bishops are held.

Because it is admitted that this Bill wants many corrections, and it is unwise at any time to send an imperfect Bill from this House to the House of Commons, and particularly so at this late period of the Session, when the Commons have not sufficient time to amend it.

William Draper Best, Lord Wynford.

Because to pass a Bill on a subject of so much moment, of which, by reason of its great, manifest, and manifold imperfections, it is

acknowledged by its authors and warmest advocates that it cannot be expected and ought not in its present state to become an Act of the Legislature, is derogatory to the honour of this House, and would be a precedent of the most dangerous character, if the glaring unfitness of such a proceeding did not forbid all apprehension that it will ever hereafter be imitated.

Henry Philpotts, Bishop of **Exeter**.

## DCCXLI.

AUGUST 5, 1839.

The Penny Postage Bill was read a second time in the House of Lords on this day, being introduced by Lord Melbourne. It caused a long debate (Hansard, Third Series, vol. xlix, p. 1207), but was carried without a division. The following protest was entered.

Because I consider the experiment dangerous, in the present state of the revenue of the country, and the proposed advantage, even to the class for whose benefit it has been principally devised, very much overrated.

Charles Herbert Pierrepont, Earl **Manvers**.

## DCCXLII.

AUGUST 6, 1839.

A series of resolutions (five in number) were moved in the Lords by Lord Brougham on the Administration of Criminal Justice in Ireland. The two last were as follows:—

‘(1) Resolved, by the Lords Spiritual and Temporal, in Parliament assembled, That it is the duty of the Executive Government, when considering any case of conviction had before any of the King’s judges, with a view to remitting or commuting the sentence, to apply for information to the judge or judges who tried the case, and to afford such judge or judges an opportunity of giving their opinion on such case, unless circumstances should exist which render any such application impossible, or only possible with an inconvenient delay; but that it is not necessary that the Executive Government should be bound to follow the advice, if any, tendered by such judge or judges.

‘(2) Resolved, by the Lords Spiritual and Temporal, in Parliament assembled, That the prerogative of pardoning all offences in the conviction for which private parties are not interested, and other than offences against the Habeas Corpus Act (31 Charles II, cap. 2), is a high, indis-

putable, inalienable prerogative of the Crown, but that it is vested in the Crown for the purpose of aiding in the administration of justice, and is to be exercised so as best to attain that important object ; that it ought never to be exercised without full and deliberate inquiry into all the circumstances of each case and each individual ; and that its exercise ought to depend on those circumstances, and never on the accident of the Sovereign, or his representative, happening to visit the place where an offender under sentence may be confined.'

The resolutions were carried by 86 to 52, and the following protest was inserted.

1st, Because the two last resolutions contain abstract propositions relating to the principles on which a power vested by the Constitution in the Crown should hereafter be exercised ; and although it be the undoubted privilege of the hereditary advisers of the Crown humbly to suggest to the Throne the exercise of such Royal prerogative in special cases, where, according to their judgment, such exercise is necessary and expedient, as well as, on the other hand, to offer their advice against any exercise thereof which appears to them hazardous or injurious to the public interests, yet we are not aware that it has been usual, or can be constitutional or becoming in this House, spontaneously and unnecessarily to lay down certain abstract rules for the guidance of the Crown in the use of powers which are placed by the Constitution at its discretion, and the proper exercise of which may depend upon circumstances which it is impossible for us to foresee. Such a proceeding must have a tendency to fetter the prerogative, and limit the discretion which the law has intrusted to the Prince and his responsible ministers. The impropriety of such a course appears more manifest, inasmuch as it is calculated to give countenance to a suspicion that the Lords of Parliament, not contented with the high functions assigned to them by the Constitution of the country, are desirous of obtaining a share in other prerogatives which it has placed elsewhere, though it has subjected the exercise of them to responsibility.

2ndly, Because the power of pardon, which Mr. Justice Blackstone emphatically describes to be 'the most personal and the most his own' of all the prerogatives of the King, appears to us the last which can invite or justify the interposition of one House of Parliament with new regulations and restrictions on its exercise. The obligation attempted to be imposed on the Crown by these resolutions, namely, the necessity of previous consultation with the



judge, would in many possible, and some not improbable, instances, be at variance both with the theory on which the prerogative of mercy is preserved in our Constitution and with the duties which the judicial character supposes in our judges. The best writers on the principle of general law, as well as the ablest commentators on our own have justified the prerogative of mercy inherent in the Crown on the acknowledged maxim, 'that the power of judging and pardoning a criminal should never centre in one and the same person.' Yet the practical effect, if any, of these resolutions, would be, virtually to transfer from the Prince and his responsible advisers to the judge who tried, the power of pardoning the criminal he had condemned, thereby, in the strong language of the above-cited authorities, 'obliging him to contradict himself, to make and unmake his decisions, tending to confound all ideas of right among the mass of the people, and rendering it difficult to tell whether a prisoner was discharged for his innocence, or pardoned through favour or compassion.'

3rdly, Because, although a judge can unquestionably afford the best and most satisfactory testimony to all circumstances of doubt and extenuation which have appeared on the trial, and consequently should, wherever mercy is extended upon such considerations, be previously informed and chiefly consulted, yet we apprehend that there are many and strong motives to mercy, moral, prudential, and political, on which persons officially intrusted with the strict interpretation and application of the law are far from being the most competent judges or the safest advisers; services rendered by the prisoner either before or subsequent to his trial, discoveries and disclosures made by him of past delinquencies, or of designs on foot, the proofs and consequences of his entire and sincere repentance, together with various other conceivable reasons of state and policy, may all furnish legitimate grounds for the exercise of mercy, as long as our Constitution preserves inviolate to the Crown that godlike attribute; and yet the consideration of such circumstances are surely peculiarly unfitted, and perhaps even unwholesome, for minds engaged in the stern and impartial discharge of the duties becoming a criminal judge.

Henry Richard Fox Vassall, Lord **Holland**.  
Charles William Fitzwilliam, Earl **Fitzwilliam**.  
Edward John Littleton, Lord **Hatherton**.

William Charles Keppel, Earl of **Albemarle**.  
 John William Ponsonby, Lord **Duncannon**.  
 George William Campbell, Lord **Sundridge** (Duke of Argyll).  
 George William Frederic Villiers, Earl of **Clarendon**.  
 Henry Bromley, Lord **Montfort**.  
 Charles Rose Ellis, Lord **Seaford**.  
 Thomas Atherton Powys, Lord **Lilford**.  
 Charles Brownlow, Lord **Lurgan**.  
 William King Noel, Earl of **Lovelace**.  
 William Conyngham Plunket, Lord **Plunket**.  
 Nathaniel Clements, Lord **Clements** (Earl of Leitrim).  
 Henry Villiers Stuart, Lord **Stuart de Decies**.  
 Arthur James Plunket, Earl of **Fingall**.  
 Cornelius O'Callaghan, Lord **Lismore** (Viscount Lismore).  
 William Lewis Hughes, Lord **Dinorben**.  
 Archibald Acheson, Earl of **Gosford**.  
 Gilbert Eliot Murray Kynynmound, Earl of **Minto**.  
 Thomas Henry Foley, Lord **Foley**.  
 Edward Pryce Lloyd, Lord **Mostyn**.  
 Paul Methuen, Lord **Methuen**.  
 Nicholas William Ridley Colborne, Lord **Colborne**.  
 Lucius Bentinck Carey, Lord **Hunsdon** (Viscount Falkland).  
 Charles Noel, Lord **Barham**.  
 John Thomas Stanley, Lord **Stanley of Alderley**.  
 William Francis Spencer Ponsonby, Lord **De Mauley**.

### DCCXLIII.

AUGUST 13, 1839.

By 2 and 3 Victoria, cap. 83, the Poor Law Commission was continued till the 14th of August, 1840, and from thence to the next Session of Parliament. The following protest is inserted against the second reading of the Bill.

1st, Because the proposed law continues to give to commissioners the power of making rules, orders, and regulations which are to have the same force and authority as Acts of Parliament, a power which is altogether inconsistent with the British Constitution, which is despotic and dictatorial, and which ought not to be allowed.

2ndly, Because it continues to place under the absolute control of the said commissioners all those who may through misfortune, and without any misconduct of their own, be compelled to apply to their parishes for relief.

3rdly, Because it continues to violate with the most flagrant injustice the natural rights of the labouring classes, and to deprive them of their ancient and legal claim to such employment or relief when they are destitute or disabled, as the vestries of their respective parishes might determine.

4thly, Because it continues to deprive those who pay the poor rates of the rights to which, both in law and in reason they were justly entitled, of expending those rates in the manner which they considered most conducive to the welfare of the poor in their own parishes.

5thly, Because under the new Poor Law, which it is now proposed to continue, prisons have been built under the name of workhouses, and poverty is punished as a crime, without making any distinction between the able-bodied and the infirm, between the idle and the industrious, between the worthless and the deserving.

6thly, Because under that law those who are willing to work, but unable to find work, are not provided with employment, and have in numberless cases been refused relief, except under the condition of being confined in what are called union workhouses, where husbands have been separated from their wives, and parents from their children, and poor persons have been removed from their relations and friends amongst whom they had hitherto resided.

7thly, Because the many grievous acts of injustice and oppression which have been committed under that law have excited great and general indignation, and ought to be effectually prevented for the future.

8thly, Because that law, by its manifest tendency to lower the wages of labour, by its depriving the labouring classes of the protection which they heretofore enjoyed, and which is justly their due, and by its aggravating their distress, must render them discontented, and may drive them to despair and disaffection.

9thly, Because that law is contrary to the precept of religion, is unjust in its nature, oppressive in its operation, and injurious to the whole community by endangering the public peace and the security of property.

Philip Henry Stanhope, Earl Stanhope.

## DCCXLIV.

AUGUST 15, 1839.

An Address had been sent by the Lords to the Crown, on the 2nd of August, praying that measures be taken for the suppression of the Slave Trade, under the flag of Brazil and Portugal, and that the cruisers in the service should be used for the purpose. An answer was given affirmatively to this address, and an Act for the suppression of the Slave Trade was read a second time this day (2 and 3 Victoria, cap. 57),—see Hansard, Third Series, vol. 1, p. 300. The second reading was carried by 39 to 28. The following protest was entered.

1st, Because the object of this Bill is to authorize an officer of the Crown to order the adoption of measures of hostility against Portugal, and other operations of war, not founded upon any public declaration of the Sovereign, or message to this House in the usual form, announcing the necessity for such measures and operations, and calling upon the House to give its legislative assistance to enable her Majesty to carry into execution and perform the same, if such assistance should be necessary.

2ndly, Because this House has not before it the information to enable its members to judge of the expediency and necessity for these measures, and operations of the force necessary to carry into execution and carry on the same, of the probable resistance and retaliation of Portugal and other powers, and in that case of the means of resistance of this country, for the protection of her Majesty's dominions abroad, and of the innocent and defenceless commerce of her subjects in all parts of the world.

3rdly, Because the Constitution of this Kingdom and uniform practice have been to leave to the Sovereign, acting by the advice of her servants, the decision on all questions of peace or war, and to carry into execution such measures and to order such operations as the Sovereign might be advised.

4thly, Because the enactment by Parliament of measures and operations of war against a power of Europe is unusual and unconstitutional.

5thly, Because the enactments of the first clause in the Bill enable the Lord High Admiral, or any one of her Majesty's Secretaries of State, to authorize any person or persons, that is,

in a privateer, letter of marque, or otherwise, to detain, visit, demand, search for, and examine the papers of any vessels engaged, or by such persons supposed to be engaged, in the Slave Trade, and in case such vessels should not have on board, or the masters thereof should refuse or neglect to produce, on demand, papers showing that they are justly entitled to claim the protection of the flag of any state or nation, to detain, seize, and capture such vessels, and this while the existing treaty with the King of the French for the purpose of more effectually suppressing the criminal traffic called the Slave Trade stipulates that a mutual right of search might be exercised on board the vessels of each of the two nations within certain waters, but that the right of search shall be exercised only by ships of war whose commanders shall have the rank of captain, or at least that of lieutenant in the royal navy; that the number of ships invested with this right shall be fixed each year by special agreement; that the names of the ships and of their commanders shall be communicated by each of the Governments to the other, and information given of all changes; that the ships of war authorized to exercise the reciprocal right of search shall be furnished with a special authority from each of the two Governments; that the search shall be exercised only within the waters, as described, that is to say, the West Coast of Africa from the 10th degree of south latitude to the 15th degree of north latitude as far as the 30th degree of west longitude from the meridian of Paris, all round the island of Madagascar to the extent of twenty leagues from the island, to the same distance from the islands of Cuba and Porto Rico and from the coast of Brazil; that whenever a merchant vessel shall have been overtaken, being liable to suspicion, the commanding officer, before he proceeds to the search, shall exhibit to the captain of the merchant vessel the special orders which confer upon him, by exception, the right to visit her; the treaty then proceeds to specify the places to which shall be sent for adjudication French merchant ships detained by her Britannic Majesty's ships, being all of them places in which the jurisdiction was to be French.

But the first and all the clauses of the Bill which enable the Lord High Admiral or any Secretary of State to authorize any person or persons to detain, search, seize, and capture any vessels, require that the same shall be brought for adjudication in the High

Court of Admiralty in England, or in any Vice-Admiralty Court within her Majesty's dominions.

6thly, Because treaties to a similar purport, if not copies of the treaties with the King of the French, have been concluded for the same purpose with the following Powers and States :—The King of Sweden and Norway ; the King of Denmark ; the Queen of Spain ; the King of Sardinia ; the King of the Two Sicilies ; the King of the Netherlands ; the Hanse Towns ; the Grand Duke of Tuscany.

7thly, Because the fourth section of the Bill particularly refers to the equipment of a merchant vessel, which being found on board shall be considered as *prima facie* evidence of the employment of such vessel in the transport of negroes or others for the purpose of carrying them to slavery, and requires that such vessels shall be brought to England or elsewhere to be adjudicated and condemned in a British court of justice, notwithstanding that the treaty with the King of the French contains a special stipulation upon this very subject of equipment, and provides that merchant vessels under French colours detained and found to be equipped shall be sent for adjudication to a particular place stated there, to be adjudged by a French tribunal. The treaties with other powers contain similar stipulations.

8thly, Because the provisions of the Bill convey powers to the Lord High Admiral and to the Secretaries of State to give instructions to her Majesty's cruisers, and to give authority to all persons, which must occasion breaches of the stipulations of her Majesty's engagements with nearly all the powers of Europe, if exercised as they may and probably will be.

9thly, Because the exercise of the powers given by the Bill to the Lord High Admiral and to the Secretaries of State may tend to the detention and search for papers, and the consequences of these acts on board the merchant vessels belonging to the citizens of nations or subjects of powers with which her Majesty is not engaged by any treaty for the mutual detention and search of vessels for the purpose of preventing the traffic called the Slave Trade may be, that such detention and search may be resisted or retaliated, and eventually lead to other measures of war.

10thly, Because it is the Sovereign, with the advice of her Council, who ought to originate such measures likely to be attended by such consequences, if the honour or interests of the

country should require their adoption, and not the Houses of Parliament, whose duty it is to adopt proceedings in support of such measures when regularly called upon by the Sovereign by message in the usual form.

11thly, Because measures so unusual, and calculated to be attended by such consequences, are not necessary in order to obtain from Portugal the due execution of the treaties concluded with the Sovereigns of this country; at the same time they are more likely than others to lead to permanent, if not interminable, hostilities between the two nations.

12thly, Because the Bill authorizes the capture and detention of Portuguese vessels and natives of Portugal, subjects to the Crown of Portugal, and their adjudication before a British tribunal, for a breach of treaty with the Sovereign of Great Britain and Ireland and a breach of the law of Portugal, thus assuming a right to exercise a jurisdiction at sea to punish a foreigner by the sentence of the courts of this country for a breach of the municipal law of his own country.

13thly, Because such proceedings as are authorized by this Bill are inconsistent with the ancient and honourable policy of this country, to maintain for ourselves peace with all nations by respecting the rights, institutions, and independence of all, and cultivating their goodwill by friendly relations; to promote peace between the nations of the world in general by our good offices and exertions, particularly in favour of the weak.

William Fitzgerald, Lord Fitzgerald (Lord Fitzgerald and Vesce).

Arthur Wellesley, Duke of Wellington.

George Percy, Earl of Beverley.

John Thomas Freeman Mitford, Lord Redesdale.

James Alexander Erskine, Earl of Rosslyn.

Cornwallis Maude, Viscount Hawarden.

William Courtenay, Earl of Devon.

Charles Manners Sutton, Viscount Canterbury.

John Butler, Lord Ormonde (Marquis of Ormonde).

Crossley Ashley Cooper, Earl of Shaftesbury.

William Forward Howard, Earl of Wicklow.

Richard Butler, Earl of Glengall.

John Copley, Lord Lyndhurst.

Philip Charles Sidney, Lord De Lisle and Dudley.

## DCCXLV.

AUGUST 15, 1839.

The following protest is entered against the third reading of the Poor Law Commission Continuance Bill.

1st, Because, after so many Bills have been rejected because they were sent up from the Commons so late in the Session, this Bill, to which a large majority of the labouring classes object, should not have been committed after one in the morning of the 16th of August, when only twelve Peers were in the House, and when it could not receive any consideration.

2ndly, Because, as long as the Poor Law Commissioners remain in office, the poor will continue subject to those absurd, unjust, and cruel regulations, viz. that able-bodied men willing to work, but unable to obtain employment, infirm persons, and widows with families, capable of doing something, but not able to earn sufficient for their maintenance, men whose families are so large that they cannot be supported on the wages which these men earn, are offered the alternative of starving or being imprisoned in a work-house. If men reduced to this wretched situation by those regulations steal (as no doubt some of them will), the authors of the regulations are, morally speaking, accessories to their crimes.

William Draper Best, Lord Wynford.

## DCCXLVI.

AUGUST 19, 1839.

The following protest was entered against the third reading of the Slave Trade Suppression Bill, which was carried without a division.

1st, Because no communication has been made to this House by message from the Queen which can render necessary or which can alone justify this House in agreeing to the proposed enactments of this Bill.

2ndly, Because those enactments authorize measures and operations of war against the subjects of a foreign power, Portugal, and their property, for breaches of treaty concluded between



her Majesty's royal predecessors and Portugal, and for offences committed against the laws of Portugal on the high seas, and on the coast of Africa, and provides that subjects of Portugal and their property are to be brought to England, or elsewhere in her Majesty's dominions, to be adjudicated by her Majesty's High Court of Admiralty or a Court of Vice-Admiralty.

3rdly, Because the enactments proposed in this Bill deprive those foreigners thus to be adjudicated of all national protection.

4thly, Because they authorize the detention at sea, the boarding, the demand, search for, and examination of the papers of all vessels met at sea by her Majesty's cruisers, or any person in her Majesty's service, in direct violation of all the treaties made with each of nearly all the powers of Europe for regulating a mutual right of search by ships of war of merchant vessels for the suppression of the traffic called the Slave Trade.

5thly, Because the amendments in the first clause of the Bill leave the objection to the exercise of the right of search exactly where it stood in the Bill before it was discussed and altered in Committee.

6thly, Because vessels sailing under the flag of any nation may be detained, boarded, searched, the demand for papers made (which must be inspected) before the illegal or predatory character of the vessel detained can be established; each of which acts of detention, boarding, demand, search for, and examination of papers, is a violation of treaty as between her Majesty and each of nearly all the powers of Europe, as applied to vessels sailing under their flags respectively.

7thly, Because the exercise of such right of detention, boarding, search for, and examination of papers, of vessels on the high seas in time of peace, has been declared illegal by the highest judicial authority that ever presided over the English Court of Admiralty.

8thly, Because the exercise of such right is liable to be resented and retaliated by all the powers of the world, including those with which her Majesty is bound by treaties, each authorizing restricted and regulated mutual search of merchant vessels in certain localities, in order to suppress the traffic called the Slave Trade.

Arthur Wellesley, Duke of Wellington.  
Cornwallis Maude, Viscount Hawarden.

John Thomas Freeman Mitford, Lord **Redesdale**.  
George Percy, Earl of **Beverley**.  
William Fitzgerald, Lord **Fitzgerald** (Lord Fitzgerald and Vesci).  
Richard Butler, Earl of **Glengall**.  
John Butler, Lord **Ormonde** (Marquis of Ormonde).  
Charles Manners Sutton, Viscount **Canterbury**.

## DCCXLVII.

AUGUST 26, 1839.

An Act for improving the police in Bolton had been amended by the Lords, and the amendment had been modified in the Commons. When the Bill came back to the Lords, the Duke of Wellington complained that the course taken by the Commons was irregular; and though the Lords agreed to the amendment, an order was entered that the Act should not be drawn into a precedent. The Duke also inserted the following protest.

1st, Because the amendment made by the Commons to the amendment of the Bill made by this House, press 7, line 23, has no relation with the subject matter of the amendment made by this House, and is inconsistent with the usual course and practice in relation to the amendment of Bills established between the two Houses of Parliament.

Arthur Wellesley, Duke of **Wellington**.  
John Thomas Freeman Mitford, Lord **Redesdale**.  
Charles Manners Sutton, Viscount **Canterbury**.  
Henry Brougham, Lord **Brougham and Vaux**.  
Cornwallis Maude, Viscount **Hawarden**.

## DCCXLVIII.

APRIL 11, 1840.

A Bill had been brought from the House of Commons entitled 'An Act to give summary protection to persons employed in the publication of Parliamentary Papers, and to persons employed in the execution of certain warrants granted by the Speaker of the House of Commons.' The stimulus to this legislation was Stockdale's case. A few amendments were made, chiefly by Lord Denman, in the Lords, the object of which was to assist the principle of the Bill. The Bill is 3 and 4 Victoria, cap. 9. The following protest was entered against the third reading.

1st, Because the Bill does not contain enactments to provide for

the discontinuance of the sale by the officers of, and by the persons employed by, either or both Houses of Parliament of the petitions presented and reports made to the Houses respectively, and their proceedings, which have provoked those injured by the libellous matter contained in such papers to institute proceedings at law against the publishers and vendors of such matter, and may provoke the commission of breaches of the peace, when it will be found that the Courts of Justice are closed in all cases to the complainants of such libellous matter thus published and sold, and that the Queen's subjects must submit to the injury of loss of reputation and character, or apply for redress to the Houses of Parliament, by whose order and sanction such libellous matter may have been printed, published, and sold.

2ndly, Because it is obvious, from what has passed, that no mode has yet been discovered of preventing the printing and publication in their papers respectively, by both Houses of Parliament, of libels which have been published nearly up to the present day.

3rdly, Because the sale of the Parliamentary Papers by the officers of the Houses of Parliament in antecedent times cannot be compared with the sale of the papers printed and published by the House of Commons under authority of the resolutions of August 1835; the sale was in general connived at, rather than ordered as at present, and was made by the officers of the House, and for their advantage and profit, and not as a measure of public finance; the right honourable the Speaker of the House of Commons states in his evidence on the 2nd of March, 1840, that 'the sale was not directly authorized by the House, although it always existed;' and the Report of the Committee of the House of Commons, presented on the 10th of March, 1840, states that 'no direct order of the House for the sale of these papers can be traced.'

4th, Because the number of papers printed and published, in addition to votes and petitions printed in appendices to votes, was small in ancient times in comparison with those printed, published, and sold since 1835, and their contents less important, whether in relation to the subject matter thereof, or to their influence upon the private character and reputation of individuals.

5thly, Because the Bill, without such provision, cannot have the effect of terminating the difficulties attending the enforcement of the privileges of the two Houses upon these matters of libel, and

of relieving the Queen's subjects from the inconveniences felt, although it may terminate the actually existing differences.

Arthur Wellesley, Duke of **Wellington**.

William Draper Best, Lord **Wynford**.

John Thomas Freeman Mitford, Lord **Redesdale**.

## DCCXLIX.

MAY 4, 1840.

The Queen's Speech contained a clause directing the attention of the Houses to the state of the Municipal Corporations in Ireland, and the Government brought in a Bill to remedy certain inconveniences in the existing state of the law. It should be stated that a similar Bill was introduced in 1839, was extensively altered in the Upper House, and dropped because it was impossible at the late period of the Session to proceed with it. The Bill was read a second time on the 4th of May. Many alterations were made in it; and ultimately a conference of the two Houses was held, when the Commons gave way. The Act is 3 and 4 Victoria, cap. 108.

The following protest was entered against the second reading.

1st, Because this Bill has a tendency to endanger property; inasmuch as corporators have the same right to their property and privileges as heirs have to the titles of estates of their ancestors.

2ndly, Because the only charge against these corporators is that they have excluded Roman Catholics from their Corporations; had they not done so, they would have failed in the due execution of their trusts, and would not have given the support due from them to the Protestant interest.

3rdly, Because the passing of this Act will not satisfy the Romish priests and their party; their agitators speak of this only as an instalment, and the payment of every instalment, as such, is an acknowledgment of the full demand, that is, the destruction of the Protestant Church, and anything further which they may demand.

William Draper Best, Lord **Wynford**.

George Kenyon, Lord **Kenyon**.

George William Finch Hatton, Earl of **Winchilsea and Nottingham**.

George John Milles, Lord **Sondes**.

## DCCL.

MAY 12, 1840.

Lord Stanhope brought forward a motion for an address to the Crown in the following terms :—‘That an humble Address be presented to her Majesty to express to her Majesty the deep concern of this House in learning that an interruption has occurred in the friendly relations and commercial intercourse which had so long subsisted with the Chinese Empire; and to represent to her Majesty that these calamities have, in the opinion of this House, been occasioned by British subjects having persevered in bringing opium to China, in direct and known violation of the laws of that Empire; and to request that her Majesty will be graciously pleased to take immediate measures for the prevention of such proceedings, which are so dishonourable to the character and so detrimental to the interests of her subjects; and to assure her Majesty that if any additional powers should be found requisite for the purpose, this House will readily concur in granting them to her Majesty.’ The debate on the subject is in *Hansard*, Third Series, vol. liv, p. 1. The motion was negatived without a division, Lord Melbourne and the Duke of Wellington being equally opposed to it.

Lord Stanhope entered the following protest.

1st, Because it is indispensably necessary for the honour and for the interests of this country to prevent British subjects from continuing to send opium to China, in direct and known violation of the laws of that Empire.

2ndly, Because the continuance of that traffic, after rigorous measures had been adopted by the Chinese Government for its suppression, has led to the interruption of the friendly relations and commercial intercourse which had so long subsisted with that Empire, and may involve this country in an unjust and unnecessary war.

3rdly, Because the prevention of that traffic is required by the principles of justice and good faith, and by the sacred precept of doing unto others as we wish that they should do unto us.

Philip Henry Stanhope, Earl Stanhope.

## DCCLI.

JULY 9, 1840.

One of the measures of Lord Melbourne's government, in 1840, was the Canada Government Bill, 3 and 4 Victoria, cap. 35. One of the

points in the Bill was to give an equal number of representatives to the two provinces of Upper and Lower Canada, with the object, as was said, of neutralising the French interest in the latter province. To this Lord Ellenborough moved an amendment, which was negatived; when he inserted the following protest.

1st, Because it is the duty of Parliament, when it enacts the union of the Legislatures of Upper and Lower Canada, during the suspension of the Legislature of the latter province, to provide that such union shall take place on principles strictly just, to which it might be presumed that the Legislature of Lower Canada, if it acquiesced in the measure of union, would not unwillingly accede; and it could not be presumed that that Legislature would consent to the provision that Lower Canada having 700,000 inhabitants, and comprising the cities of Quebec and Montreal, should have no larger number of representatives in the united Legislature than Upper Canada, which has 400,000 inhabitants.

2ndly, Because the measure of giving an equal number of representatives to two provinces so unequal, for the temporary end of outnumbering the French, tends to defeat the purposes of union, and to perpetuate the idea of disunion; while, if emigration should largely increase the English population in Upper Canada, it will tend to give the same undue weight to the French which it now gives to the English inhabitants of the united province.

Edward Law, Lord Ellenborough.

## DCCLII.

JULY 9, 1840.

Lord Ellenborough moved next certain other amendments, the object of which was to confer the representative franchise on certain towns in Lower Canada. His amendments were negatived, and he inserted the following protest.

1st, Because the House having decided on giving an equal number of representatives to Upper and Lower Canada, a measure which in itself appears to be unjust to Lower Canada, it is the more necessary to provide that the representation of that province shall be settled in a manner unexceptionable, and calculated to give satisfaction to the great majority of its inhabitants.

2ndly, Because the Act now regulating the representation of Lower Canada was only passed in 1829, and in the opinion of the Canada Commissioners 'cannot justly be charged with unfairness;' and the proposed amendments would have left the representation of Lower Canada as it was then settled, with no other alteration than that which the necessary reduction of the total number of members for that province renders unavoidable.

3rdly, Because the alterations in the representation of Lower Canada contained in the Bill are partial in their character, having for their object still further indirectly to increase that disproportion between the representation of the English and French population of the provinces to be united which is directly effected by the previous provision that the two provinces shall be represented by an equal number of members.

4thly, Because if the French Canadians are to be deprived of representative Government, it would be better to do it in a straightforward way than to attempt to establish a permanent system of government on the basis of what all mankind would regard as electoral frauds. It is not in North America that men can be cheated by an unreal semblance of representative government, or persuaded that they are outvoted, when, in fact, they are disfranchised.

Edward Law, Lord Ellenborough.

## DCCLIII—DCCLVI

JULY 13, 1840.

The following protests were entered against the third reading of the Canada Government Bill.

### I. THE DUKE OF WELLINGTON'S PROTEST.

1st, Because the union of the two provinces of Upper and Lower Canada into one province, to be governed by one administration and legislature, is inconsistent with sound policy.

2ndly, Because the territory contained in the two provinces is too extensive to be so governed with convenience.

3rdly, Because the communications from one part of the country

to others are very long and difficult, the difficulties whereof vary, not only in different localities and parts of the country, but in the same locality at different seasons of the year.

4thly, Because the expense which might be incurred to remedy the inconveniences and to overcome the difficulties of the communication at one season would not only be useless, but might be prejudicial, and render the communications impracticable, at other seasons.

5thly, Because, even in the hypothesis that a central place is fixed upon as the metropolis and seat of government of the united province, and for the assembly of the Legislature, still the communication with the distant parts of the united province would require a journey of from 500 to 1,000 miles by land or by water, and in most cases by both.

6thly, Because the inhabitants of these provinces, having originally emigrated from different parts of the world, talk different languages, and have been governed, and have held their lands and possessions, under laws and usages various in their principle and regulations as are the countries from which they originally emigrated, and as are their respective languages.

7thly, Because portions of this mixed population profess to believe in not less than fifteen different systems or sections of Christian belief or opinion; the clergy of some of these being maintained by establishment, those of others not, the Roman Catholic clergy of French origin being maintained by an establishment, while the Roman Catholic clergy attached to the Roman Catholic population of British origin have no established maintenance, and the system of provision for the clergy of the Churches of England and Scotland is still under discussion in Parliament.

8thly, Because these inhabitants of the two provinces, divided as they are in religious opinions, have no common interest, excepting the navigation of the river St. Lawrence, in the exclusive enjoyment of which they cannot protect themselves, whether internally, within their own territory, or externally, but they must look for protection in the enjoyment of the same to the political influence and to the naval and military power of the British Empire.

9thly, Because the legislative union of these provinces is not necessary in order to render them the source of great influence and power to the mother country.



10thly, Because the operations of the late war, terminated in the year 1815 by the Treaty of Ghent, which were carried on with but little assistance from the mother country in regular troops, have demonstrated that these provinces are capable of defending themselves against all the efforts of their powerful neighbours the United States.

11thly, Because the military operations in the recent insurrection and rebellion have tended to show that the military resources and qualities of the inhabitants of Upper Canada have not deteriorated since the late war in North America.

12thly, Because the late Lieutenant Governor of Upper Canada, Sir Francis Head, having, upon the breaking out of the rebellion in Lower Canada in the year 1837, detached from Upper Canada all the regular forces therein stationed, relied upon the loyalty, gallantry, and exertions of the local troops, militia, and volunteers of the province of Upper Canada.

13thly, Because, with the aid of these, under the command of the speaker of the legislative assembly of Upper Canada, Colonel Sir Alan M'Nab, he first defeated the rebels in Upper Canada, and then aided in putting down the rebellion in Lower Canada, at the same time that he was carrying on operations in resistance to the invasion of the province under his Government by plunderers, marauders, and robbers from the United States, under the name of sympathisers in the supposed grievances of the inhabitants of the provinces of Upper and Lower Canada.

14thly, Because the legislative union of the two provinces, although the subject of much literary and other discussion, had never been considered by the Legislature of Upper Canada excepting on terms which could not be proposed, or by any competent authority in the lower province excepting in the report of a late Governor General.

15thly, Because the Bill introduced into Parliament in the year 1839, having in view a legislative union of the two provinces of Upper and Lower Canada, was withdrawn before it was completed.

16thly, Because the Legislature of the province of Upper Canada which had co-operated with the Governor, Sir Francis Head, and had enabled him, after getting the better of the insurrection in Upper Canada, to assist the Commander-in-chief of her Majesty's

forces in 1837 and 1838 to put down the rebellion in the province of Lower Canada, was not fairly consulted upon the proposed measures for the legislative union of the two provinces.

17thly, Because a despatch, dated the 16th of October, 1839, having for its object the introduction into Upper Canada of new rules for the future administration of the patronage of the Government, and for the tenure of office, was made public at Toronto on some days previous to the assembly of the Legislature of Upper Canada, for the purpose of taking into consideration the proposed law for the legislative union of the two provinces, and the members of the two chambers of the provincial Parliament of Upper Canada must have had reason to believe that her Majesty's Government were anxious to carry through that particular measure, and that they would be exposed to all the consequences of opposition to the views of her Majesty's Government, as communicated in the said despatch, if they should object to the Bill proposed to them.

18thly, Because it is well known that there is in Upper Canada a large body of persons eager to obtain the establishment in her Majesty's colonies in North America of local responsible Government, to which they had been encouraged to look by the report of the late Governor General, the Earl of Durham, recently published.

19thly, Because these persons considered that the despatch of the 16th of October, 1839, then published, held out a prospect of the establishment of a local responsible government under the Government of the united province.

20thly, Because another despatch, dated 14th October, 1839, appears to have been sent to the Governor General at the same time with that dated the 16th October, 1839, in which despatch of the 14th October, 1839, her Majesty's Secretary of State clearly explained the views of her Majesty's Government upon the subject of, and against the concession of, local responsible Government in the colonies.

21st, Because this despatch was not published, nor its contents made known, in Upper Canada, during the Session of the Legislature for the consideration of the measure of the Legislative Union, although called for by the provincial Parliament, upon which call the Governor General answered by the expression of

‘his regret that it was not in his power to communicate to the House of Assembly any despatch upon the subject referred to.’

22nd, Because the Legislature of Upper Canada must have voted in favour of the measure proposed to them while under the influence of a sense of the intentions of Government, declared to be erroneous, in relation to the despatch of the 16th October, and in total ignorance of the intentions of her Majesty’s Government in respect to local responsible Government in the colonies, as declared in the despatch from the Secretary of State to the Governor General, dated the 14th October, which it appears that his Excellency had in his possession during the discussions in the provincial Parliament of Upper Canada on the measure of Legislative Union of the two provinces.

23rdly, Because it appears the French population of Lower Canada have generally declared against the Legislative Union of the two provinces.

24thly, Because the Bill cannot be considered by any as giving facility to the administration of the Government of the province of Canada by her Majesty’s officers, when united by virtue of its provisions, and security in the dominion to the Crown of the United Kingdom.

25thly, Because the difficulties existing in the government of the two provinces of Upper and Lower Canada under the provisions of the Act 31st George III, which led to insurrection and rebellion, were the result of party spirit, excited and fomented by leaders of the legislative assembly in each province, acting in latter times, in communication, concert, and co-operation with citizens of the bordering provinces of the United States.

26thly, Because the union into one Legislature of the discontented spirits heretofore existing in the separate Legislatures will not diminish, but will tend to augment, the difficulties attending the administration of the Government, particularly under the circumstances of the encouragement given to expect the establishment in the united province of a local responsible administration of Government.

27thly, Because a spirit had still been manifested in the adjoining provinces of the United States, in recent acts of outrage upon the lives and property of her Majesty’s subjects on the frontier, and even within her Majesty’s dominions, which must tend to show

in what light the spirit of opposition to her Majesty's administration in the Legislature of the united province will be viewed in the United States.

Arthur Wellesley, Duke of Wellington.

Edward Law, Lord Ellenborough.

Percy Clinton Sydney Smith, Lord Penshurst (Viscount Strangford).

John Thomas Freeman Mitford, Lord Redesdale.

George John West, Earl Delawarr.

George Kenyon, Lord Kenyon, for the first, second, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, sixteenth, seventeenth, twenty-second, and twenty-sixth reasons.

James Archibald Stuart Wortley Mackenzie, Lord Wharncliffe, for the first, second, third, fourth, fifth, ninth, fourteenth, fifteenth, sixteenth, seventeenth, eighteenth, nineteenth, twentieth, twenty-first, twenty-second, twenty-fourth, twenty-fifth, and twenty-sixth reasons.

Thomas Egerton, Earl of Wilton.

Montagu Bertie, Earl of Abingdon.

Francis Almeric Spencer, Lord Churchill.

Cornwallis Maude, Viscount Hawarden.

Henry Somerset, Duke of Beaufort.

John George Weld Forester, Lord Forester.

## II. LORD ELLENBOROUGH'S PROTEST.

1st, Because the vast extent of the provinces to be united, the peculiar difficulty of communication between the several parts of those provinces, the dissimilar state of society in them requiring dissimilar laws, and the great amount of local and private as well as of public business to be transacted by a Legislature small in number, during a Session necessarily short, combine to render it impossible that, under any circumstances, the provisions of the Bill should afford a good government to the people of Canada.

2ndly, Because the great majority of the inhabitants of Upper Canada being sincerely loyal, that province, under a separate Legislature, and an honest Executive Government, discountenancing the disaffected and encouraging the loyal, might be expected to remain permanently connected with this country, and by its position and its resources would afford the means of retaining possession of the other provinces, which, if Upper Canada be lost, it will be impracticable to preserve.

3rdly, Because the Bill, framed in a spirit of distrust of the

French inhabitants of Lower Canada, yet gives very considerable power to their representatives, and while it tends to confirm their alleged disloyalty by the distrust it manifests, and by the bad government it creates, affords at the same time the means of constituting, by their coalition with the representatives of the disaffected in Upper Canada, a permanent majority in the assembly hostile to the connexion with this country.

4thly, Because the Bill, founded on a double error—that of undue distrust of the whole French population, and that of undue confidence in the whole population of British origin—while it gives to the former a representation inadequate to its number and to its wealth, has for its object to transfer in effect to the latter the whole legislative authority.

5thly, Because such legislative authority, exercised in the spirit in which it is bestowed, must permanently subject the whole French population to a rule practically worse, because partial and less enlightened, than that which, in consequence of recent events, has been temporarily imposed upon it by Parliament.

6thly, Because it is unwise to show distrust, and yet to give power to the distrusted—to commit an injustice, and yet to afford the means of revenge; and while Parliament would be justified in taking all reasonable temporary security against suspected disloyalty, it should be its policy, as it is its duty, to extend its paternal care even to a disaffected people, and instead of confirming temporary alienation by permanent wrong, to endeavour to restore ancient loyalty by just and beneficent government.

7thly, Because an union between two vast and dissimilar provinces, imposed upon one in distrust of its loyalty, without its consent, and on conditions which it must deem unjust, and acquiesced in by the other from views of fiscal advantage and legislative ascendancy, contains within itself the elements of its own dissolution; and there is but too much reason to apprehend that, at no distant period, both provinces will seek a refuge from their incongruous connexion, and from the grievance of an impracticable government, in a separation from this country to be effected only, under such circumstances, through the violent means of civil and of foreign war.

8thly, Because it is inconsistent with prudence to take a step which cannot be recalled, under the temporary pressure of difficulty,

and hastily to adopt a measure of which the proposers do not pretend to foresee the working, and which its opponents deem to tend directly to the loss of the Canadas, only because it is considered necessary 'to do something' with respect to them.

9thly, Because it is not by such Legislative Union, but by institutions carefully adapted to local circumstances and social distinctions—above all, by the conferring of practical benefits, that the peaceful possession of those provinces is to be secured, by the establishment in Lower Canada of a pure administration of justice, by the grant of aid to Upper Canada for the completion of a ship canal which may connect the most remote parts of that province with the navigable portion of the St. Lawrence, and by enacting an equitable arrangement for the collection by both provinces of their separate duties of customs on that river—measures essential to the well-being and contentment of the Canadas, and calculated, in conjunction with the commercial favours they already enjoy, to place their connexion with this country upon the only solid foundation—a deep conviction that they derive advantages from that connexion which would be unattainable under any form of independent or of federal government.

Edward Law, Lord **Ellenborough**.

Arthur Wellesley, Duke of **Wellington**.

George Kenyon, Lord **Kenyon**, for the second, eighth, and ninth reasons.

Percy Clinton Sydney Smith, Lord **Penshurst** (Viscount Strangford).

Henry Somerset, Duke of **Beaufort**.

John George Weld Forester, Lord **Forester**.

James Archibald Stuart Wortley Mackenzie, Lord **Wharncliffe**, for all the reasons except the ninth.

### III. LORD BROUGHAM'S PROTEST.

1st, Because the proposed union is about to be effected without the consent of the people of either province having been obtained by any proceeding upon which the least reliance can be placed, and at a moment when the temporary suspension of the Parliamentary Constitution in the more important of the two provinces made it impossible to consult the representatives of the people upon the question.

2ndly, Because the circumstances in which the union is effected,

and the provisions which accompany it, are calculated to increase the dissensions unhappily prevailing; and to prevent the consummation, so much to be desired, of friendly relations being established between the people of Canada and the people of England, when the two countries shall no longer be politically connected.

Henry Brougham, Lord Brougham and Vaux.

#### IV. LORD GOSFORD'S PROTEST.

1st, Because the two provinces are not as yet in a state fitted for a Legislative Union.

2ndly, Because the proposed terms of union are not suited to two countries differing so widely in wealth, extent, population, and circumstances.

3rdly, Because the Bill is founded on complete misrepresentation of the French inhabitants of Canada, and in its provisions unjust towards them.

Archibald Acheson, Lord Worlingham (Earl of Gosford<sup>1</sup>).

John Hobart Caradoc, Lord Howden, for the second reason.

#### DCCLVII.

JULY 30, 1840.

The fourth report of the Ecclesiastical Commissioners of England and Wales suggested a plan for the distribution of ecclesiastical revenues by the suppression of canonries and the application of the funds to the increase of income in poorly endowed parishes. The Act founded on this report is 3 and 4 Victoria cap. 113. The debate on the second reading is in Hansard, Third Series, vol. lv, p. 1115.

The following protest was entered at that stage of the Bill when it passed into Committee.

1st, Because I have heard nothing in the discussions in the above Bill to alter my opinion as to its being one of confiscation of Church property, in entire variation from the intentions of those pious persons who endowed our venerable Cathedrals, and provided for the solemn acts of devotion therein performed.

2ndly, Because the authority from whence the Bill proceeds adds much to my regret at its being brought forward, as it is evident

<sup>1</sup> Lord Worlingham signs as Earl of Gosford.

(from the numerous petitions of the clergy) that it does to the regret of the deans and chapters and clerical body at large.

3rdly, Because the large sums contributed from all quarters to the Metropolis Churches Fund prove the disposition of the Christian public to promote and extend the influence and usefulness of the Church, which disposition cannot but be checked by the measure in question, as henceforth no security can be felt as to the permanent application of any donation to the object for which it is designed.

4thly, Because much good might have been done by regulating and extending the performance of Divine Service and parochial ministrations through the instrumentality of cathedral bodies, had the heads of the Church thought fit to encourage such plans; and I cannot but think that destroying the efficiency of those bodies, instead of correcting their abuses, is adopting a course not altogether justifiable.

5thly, Because, while I admit the high and paramount importance of providing for the extension of public worship in communion with the Church of England, I cannot but think that other means than those of confiscation and bad faith might have been discovered and successfully pursued.

George Kenyon, Lord Kenyon.

## DCCLVIII, DCCLIX.

JULY 31, 1840.

The third reading of the Irish Corporations Bill elicited the following protests.

1st, Because no sufficient proofs of delinquency or misconduct were adduced against the municipal corporations of Ireland to justify so sweeping a measure of destruction, in contempt of the sacredness of ancient charters, and in defiance of those principles which, till within the few last years, were wont to distinguish the legislation of the British Parliament, and especially of this House.

2ndly, Because in the absence of such proofs of delinquency, the plea, on which the measure was mainly rested, namely, the exclusive character of the existing corporations, did, in effect, establish the fidelity of those bodies to the one great end for which



they were all alike created—the maintenance of the British interest in Ireland; the more ancient corporations having been founded as fortresses and fastnesses, to protect that interest against the rebellious attempts of the native Irish, and of the descendants of the earliest English settlers; while the more modern combined with this great common object, the still greater and more sacred purpose of maintaining the cause of true religion against the unceasing efforts of the papists to re-establish the domination of their own intolerant Church in its most corrupt and revolting form.

3rdly, Because, if it be true, that the continuance of bodies, in practice, exclusively Protestant, be no longer consistent with the feeling, which seeks to deal with all distinctions of religious faith, as equally unworthy of peculiar favour in the political institutions of the Empire, common sense and common justice alike point out the only proper course to be pursued—the simple abolition of those bodies, when the cause, for which they were created, is supposed to have ceased.

4thly, Because the adoption of a measure, which is admitted by all to ensure the establishment of bodies of Roman Catholics equally exclusive, as those which they are made to supersede, is not only contrary to common sense and common justice, but also to the spirit of most solemn promises and engagements repeatedly made by those, who advised and ultimately carried the Act for the relief of her Majesty's Roman Catholic subjects in 1829. The leaders in that great and perilous experiment pledged themselves to propose to Parliament the re-enactment of the statutes which were then repealed, or the adoption of still more stringent measures if the parties who were freed from the restrictions before imposed should prove (as they notoriously have proved) themselves unworthy of the confidence then reposed in them, and should renew their attempts against the Protestant Church in Ireland. If any unhappy concurrence of circumstances has prevented the literal redemption of that pledge, yet the least and lowest obligation, which it can justly be understood to have imposed, was the duty of a resolute and firm resistance to every new proposition for increasing the power of so bitter, so unrelenting and so perfidious an enemy.

5thly, Because, although it was declared by high authority on

the second reading of the Bill, that it would be unworthy of finally passing into a law, unless such amendments were introduced, as should give security against the establishment of other bodies equally exclusive with those which are abolished, yet the amendments, actually made, not only give no such security, but do not even attempt nor profess to give it—their only object being, to mitigate the acknowledged mischiefs of the measure, and in some trifling degree to limit the power with which it arms the popish democracy of the cities and towns in Ireland to tyrannize over the Protestant and more opulent classes of inhabitants, and to extort from them funds for the more speedy and effectual execution of their own unhallowed designs.

6thly, Because there is strong reason to believe that the final passing of the measure was the result rather of considerations of party-convenience than of any large and liberal views of national policy ;—none of those, who had it in their power to decide on the ultimate fate of the Bill, venturing to pronounce it a measure either just, or safe, in itself, or worthy of favour on any other account, than that it put an end to a question which could no longer remain unsettled without dividing public men, who from the purest motives wish to continue to act together. Thus were the greatest interests of the country forgotten in personal considerations—the end was sacrificed to the means—and the only plea which can justify the combination of statesmen—the more effectual assertion and maintenance of a great common principle, was here openly abandoned.

7thly, Because the House of Lords having, since the passing of the Act for the reform of the Commons House of Parliament, been practically deprived of what was wont to be deemed its constitutional share of control over the executive power of the Crown, was yet enabled, till the present disastrous Session, to retain, and to assert, its legislative independence ; and by the wise and efficient exercise of its just privilege, or, rather, of its highest duty, in the correction or rejection of bad Bills, had continued to earn, and to enjoy, the grateful veneration of the English people : that lofty position it has, in this instance, voluntarily surrendered ; and has thus by its own act, gone far towards realising the prophetic declaration of Sir William Blackstone, that the constitution of England would be destroyed, and could only be destroyed, by one

of the three branches of the Legislature losing its constitutional weight, and submitting to the domination of the other two.

8thly, Lastly, and above all, because by this wilful and deliberate abandonment of the cause of true religion, and of the security of the Church in Ireland, to which the fundamental laws of the constitution, the act of union, the oath of our Sovereign, and all the most sacred duties of subjects to their ruler and of men to their Maker, alike bind us, we have provoked the justice of Almighty God, and have given too much reason to apprehend the visitation of Divine vengeance for this presumptuous act of national disobedience.

Henry Philpotts, Bishop of **Exeter**.

George Kenyon, Lord **Kenyon**, for the first, third, and last reasons.

Richard Butler, Earl of **Glengall**, for the first and third reasons.

James Henry Monk, Bishop of **Gloucester and Bristol**, for the third reason.

Samuel Kyle, Bishop of **Cork and Cloyne**, for all the reasons.

Because the Bill cannot but have the effect of materially increasing the power of Roman Catholics in Ireland, a power already far too great for the security of the Protestant Established Church, and for the security of the union between Great Britain and Ireland.

George Kenyon, Lord **Kenyon**.

James Henry Monk, Bishop of **Gloucester and Bristol**.

Richard Butler, Earl of **Glengall**.

Montagu Bertie, Earl of **Abingdon**.

George Murray, Bishop of **Rochester**.

## DCCLX.

AUGUST 6, 1840.

In order to hasten the Ecclesiastical Duties and Revenues Bill the standing orders No. 26 and 155, forbidding Bills to be carried two stages in one day, were suspended.

The following protest was inserted.

Because the suspension of the said standing orders, to which the House may properly have recourse in cases where there is any urgent necessity for unusual expedition, appears to me highly improper in the course of a Bill of the highest importance, the

details of which required deliberate consideration, no reason whatever being even stated to the House for departing from the usual course of proceeding.

Dudley Ryder, Earl of **Harrowby**.  
Henry Philpotts, Bishop of **Exeter**.  
William Courtenay, Earl of **Devon**.

## DCCLXI, DCCLXII.

AUGUST 6, 1840.

The third reading of the Ecclesiastical Duties Bill elicited the following protests.

1st, Because the bishops, as a body, have never been consulted as to the innovations introduced into this Bill ; a fact which ought to be thus publicly recorded.

2ndly, Because, in consequence of this want of confidence in the body of bishops, the design of cathedral institutions has not been sufficiently considered, only a part of their duties having been stated in the Reports on which this Bill is grounded, viz. the performance of cathedral service, and the superintendence of the sacred edifices committed to the care of the respective chapters ; whereas other important objects, it is maintained, ought to have been taken into consideration, viz. the forming and keeping up a body of dignified clergy of intermediate rank between the highest ecclesiastical authorities and the parochial clergy ; having leisure and opportunities for pursuing theological and other branches of learning, conducive to the good of the Church ; which studies the cure of souls would greatly interfere with ; if not in some instances altogether impede.

3rdly, Because from this dignified and learned body men eminently qualified to serve the interests of religion have been continually selected for the highest offices of the Church, by which means the established religion has received great support.

4thly, Because if these dignities are diminished in number, the same supply cannot reasonably be looked for ; more especially if the remaining members of the chapters have their time fully occupied by the duties of their respective cathedrals.

5thly, Because the constitution of the Established Church will

be materially changed by the cutting off the supply of clerks of approved character and experience.

6thly, Because the tendency of these innovations will be to increase the difficulties of the deans and chapters, and to bring them into disrepute, on account of duties which, through age and infirmities, they may not be able to perform ; and thus prepare the way for their total abolition ; in which case there will be no intermediate order between bishops and the parochial clergy ; a state of things entirely subversive of the present constitution of the Established Church.

7thly, Because, after fully considering the sanctity and obligation of the oaths taken by bishops to defend and maintain the rights, privileges, and property of their cathedrals according to the respective statutes of each, it appears that those who have taken such oaths cannot consent to measures, which are plainly contrary to these most solemn engagements.

8thly, Because the name of Norrisian Professor is not mentioned in this Bill, notwithstanding it cannot be denied that for more than half a century the public theological instruction given in the University of Cambridge has chiefly depended upon the learning and exertions of that professor.

9thly, Because this Bill has been hurried through all its stages in a most unseemly manner, in consequence of which hasty proceedings the members of this House have not had an opportunity of obtaining the necessary information concerning this most important subject.

Joseph Allen, Bishop of **Ely**.

Henry Philpotts, Bishop of **Exeter**, for the first, second, third, and ninth reasons.

1st, Because, although the Bill has been much improved in its progress through the House, yet even in its present shape it goes to establish a dangerous precedent in the manner in which it proposes to deal with ancient foundations and established rights.

2ndly, Because the plea of necessity as applicable to this Bill is fallacious, inasmuch, as although it is fully admitted that a necessity exists for applying some remedy to the great evil of spiritual destitution so extensively prevalent, no necessity has been proved or ever stated for resorting to this particular mode of supplying the deficiency.

3rdly, Because a large amount of pecuniary assistance might have been obtained by other and better means, from the funds of cathedral foundations, towards the support of ministers engaged in parochial ministration, and the establishments themselves in all their parts might have been made, by judicious regulation, extensively useful towards the preaching of God's Word in the land, so as to accomplish the desirable object which the promoters of the Bill have in view, and at the same time to preserve and strengthen the ancient foundations of our venerable Church.

4thly, Because the preservation of our ancient cathedral establishments, and the adaptation of them to an improved parochial ministration, would have conciliated and united all true friends of the Established Church, whilst the course adopted in the present Bill is repugnant to the feelings and the wishes of a large proportion both of the ministers and the lay members of that Church.

5thly, Because, although by the principles and practice of the British Constitution an interference by the legislature with the property of individuals or of bodies of men, under special and peculiar circumstances, must be allowed, for the benefit of all the subjects who live under it, yet it is equally the doctrine of that Constitution, and is essentially necessary to its security, that such interference should be regulated by known and understood principles, under the sanction of which Englishmen may feel that they can dispose of or bestow their property in confidence according to their will, and may, on the other hand, enjoy what is bestowed according to law in confidence and peace.

6thly, Because it is the established doctrine of our law, as administered in dealing with property of any sort which has been devoted to purposes of charity or benevolence, that the will of the founder shall be respected, as far as it is possible to do so, under the change of times and circumstances; but this doctrine, although founded upon the plainest principle of justice, has been overlooked by the provisions of the present Bill, under which a great mass of property is forcibly taken, to be applied, at the discretion of commissioners for purposes highly laudable, but with a total disregard in the manner of its application to the wishes, the feelings, and the local attachments of those from whom such property is derived.

7thly, Because some of the provisions of the Bill have no sort

of connexion with its professed object, and go beyond the recommendation of the commissioners, and are not supported by any documentary or other evidence of which Parliament is in possession.

8thly, Because the establishment of a permanent commission, comprised in part of lay members nominated by the Crown, and removeable at pleasure, with such powers as are created by this Bill, is inconsistent with the established frame of ecclesiastical polity in England, and creates an unnecessary and mischievous interference with those authorities to which, by the constitution of our Church, the duties of superintendence have been hitherto confided.

William Courtenay, Earl of Devon.

Henry Philpotts, Bishop of Exeter.

Cropley Ashley Cooper, Earl of Shaftesbury.

Montagu Bertie, Earl of Abingdon.

### DCCLXIII, DCCLXIV.

AUGUST 24, 1841.

The House of Commons, on the 4th of June, voted want of confidence in the Government by a majority of one, 312 to 311. On the 23rd of June the House was dissolved, and on the 19th of August re-assembled. On the 24th of August the Lords, in an amendment to the Address, voted by 168 to 96 that the Government had not the confidence of the country. On the 27th of August the same conclusion was arrived at by the Commons by 360 to 269. The real point of attack in the Address was a statement that the Houses would consider the laws which regulate the price of corn.

The following protests were entered.

1st, Because we are adverse in principle to all restraints upon commerce. We consider that public prosperity is best promoted by leaving the national industry to flow in its natural free current, and we think that practical measures should be adopted to bring our commercial legislation back to a straight and simple course of wisdom, instead of continuing a system of artificial and injurious restriction.

2ndly, Because we think that the great principle of leaving commerce unfettered applies more peculiarly and on the highest ground of justice, to the trade in those articles which constitute the sustenance of the people. The experience of a

quarter of a century has proved, that the Corn Laws passed subsequently to the year 1815 have neither produced the plenty, the cheapness, the steadiness of price, nor any of the other benefits anticipated by the advocates of those laws; while, on the other hand, all the evil consequences predicted at the time, by those opposed to monopoly, have been realised.

3rdly, Because the practical effect of the variable scale of duties, has been to introduce a system of speculative jobbing and of fictitious sales, for the purpose of raising the averages, in order to enter corn at the minimum duties. It is impossible, under this system, to ascertain whether sales are real or fictitious, and it is well known that during the last two years, the averages have been raised, by bringing for sale into the principal markets of the Kingdom only the best qualities of corn, and that the inferior grain has been withheld from those markets, until the high average prices reduced the duties to minimum rates.

4thly, Because the inevitable effect of a system which prevents a regular trade in corn is to derange the course of commerce whenever the accidents of the season occasion a deficiency in the harvest. The fall of the foreign exchanges and export of bullion consequent on a sudden demand for large quantities of corn from countries with whom our restrictive laws preclude interchange in ordinary years, have already, on more than one occasion, brought the banking institutions of the country to the verge of bankruptcy, and occasioned general commercial distress.

5thly, Because the prosperity of a great manufacturing and commercial nation depends in a great measure upon foreign trade and access to foreign markets. The multitude of restrictions and prohibitions with which our tariff is encumbered, throw great obstacles in the way of trade, without any corresponding advantage to the revenue, and the system of excluding foreign produce has already had a most prejudicial effect in inducing those countries to encourage native manufactures, and to retaliate by corresponding restrictions upon British merchandize. In the present state of our relations with other powers, it appears impossible to persist longer in this restrictive system, without imminent danger of losing some of our best markets.

Lastly, Because we think it one of the first duties of a Government to impose no unnecessary burdens upon the industrious



classes. A system which excludes, or imposes high duties on foreign produce, for the sake of protecting particular interests, violates this obligation, on the one hand, by impeding the free course of industry, and on the other by enhancing artificially the cost of subsistence. Under present circumstances the maintenance of this system involves, in addition to those indirect burdens, the necessity of imposing a large amount of direct taxes to make good a deficiency in the revenue, which would not exist, if all articles of consumption and merchandise were admitted into our ports at moderate duties.

Augustus Frederic, Duke of **Sussex**.

John Lumley, Earl of **Scarborough**.

Thomas Dundas, Earl of **Zetland**.

Francis William Caulfield, Lord **Charlemont** (Earl of Charlemont).

William Francis Spencer Ponsonby, Lord **De Mauley**.

Henry Bromley, Lord **Montfort**.

Nathaniel Clements, Lord **Clements** (Earl of Leitrim).

Thomas Henry Foley, Lord **Foley**.

William Pleydell Bouverie, Earl of **Radnor**, for the first, second, third, and last reasons.

Edward John Littleton, Lord **Hatherton**, for the first, second, third, and last reasons.

Archibald Acheson, Lord **Worlingham** (Earl of Gosford<sup>1</sup>), for the first and third reasons.

1st, Because the Address adopted by the House, in failing to respond to the recommendation contained in her Majesty's gracious Speech from the Throne, is to be regarded as a deliberate condemnation of the policy of her Majesty's Ministers, and as such must tend to their speedy retirement from the service of the State, and to the substitution of others as advisers of the Crown whose known maxims of government afford no ground of hope that any measures emanating from their Councils can adequately meet the difficulties of the present crisis of public affairs.

2ndly, Because that part of the policy of those ministers to which such condemnation most pointedly applies has been merely an endeavour upon their parts, practically to enforce the enlightened and intelligible principle, that it is more just and wise, with a view to the provision of a sufficient public revenue, to remove restrictions

<sup>1</sup> Lord Worlingham signs as Earl of Gosford.

upon commerce, and thus extend its operation, than to perpetuate monopolies and increase taxation.

3rdly, Because the political party from which successors to those ministers must probably be chosen has uniformly proved itself, whether in or out of power, to be hostile to the reform of abuses, to the rights of conscience, and to the freedom of the subject, and consequently must fail, as advisers of the Crown, to command that respect without which the affairs of a great Empire cannot be successfully administered.

4thly, Because the uniform practice of that party, when in power, has been to foster social differences and religious animosities among the inhabitants of Ireland, a system of misgovernment as injurious in its ultimate results to those whom it professed to favour as to the large number it directly oppressed, inasmuch as its baneful effect has been to direct the attention of the country from important national objects, and to prevent that cordial union of its intellect and strength which would render a continuance of bad government impossible.

#### MOST ESPECIALLY DISSENTIENT.

5thly, Because that political party has either by the actual enforcement or the constant attempt to enforce its own vicious principles of government made itself justly odious to the large majority of the Irish people. Whatever may be the temporary professions of an administration composed of members of that party, by the Roman Catholics of Ireland it can only be regarded as a government of their inveterate enemies, who to the very last approved and defended the iniquities of the penal code, and who, since its extorted repeal, have been foremost in every attempt to curtail their civil and political privileges. The Roman Catholics must feel, if for no other reason, that the party which insulted when it could not injure will be sure to injure whenever it can. Between an administration so constituted, and subjects thus justifiably distrustful, but conscious at the same time that they are now too numerous and strong to be outraged with impunity, there is little hope that the primary object of all good government can be practically attained; viz. a prompt and cheerful obedience to the laws, founded upon the conviction that the laws are just, and justly administered. On the contrary, in looking to the probable

course of events in Ireland, there is too much reason to apprehend that the restoration to power of a party notoriously inimical to so many millions of her Majesty's subjects must produce, in the minds of the latter, such a general and deep discontent as in its consequence must speedily endanger the public peace, and ultimately impair the strength of the British Empire.

Valentine Browne Lawless, Lord Cloncurry.

## DCCLXV.

APRIL 18, 1842.

The Act of 1842, 5 and 6 Victoria, cap. 14, was read a third time in the Lower House, and carried on the 7th of April, by 236 to 86, Mr. Cobden having been defeated on a motion, 'That inasmuch as this House has repeatedly declared by its votes and the reports of its Committees, that it is beyond the power of Parliament to regulate the wages of labour in this country, it is inexpedient and unjust to pass a law to regulate, with a view to raise unnaturally, the prices of food.' The maximum duty on wheat, barley, oats, rye, beans, and pease, from foreign countries and British possessions were 20s. and 5s.; 11s. and 2s. 6d.; 8s. and 2s.; 11s. 6d. and 3s.; and the maximum rates of price at which the minimum duty should be paid on foreign and colonial corn were for the same kinds of grain severally 73s. and 58s.; 37s. and 31s.; 27s. and 23s.; 42s. and 34s. The debate in the Lords, when the second reading was moved by the Earl of Ripon, is in *Hansard*, Third Series, vol. lxii, p. 572. The second reading was carried by 119 to 17, the three Lords in the subjoined protest voting in the minority. Lord Brougham then moved 'That no duty ought to be introduced on the importation of foreign corn,' a proposal which was rejected by 109 to 5, the minority being Lords Clanricarde, Radnor, Kinnaird, Brougham, and Vivian.

The following protest was inserted.

1st, Because no alteration of the existing duties upon foreign corn ought to have been proposed without having previously endeavoured to ascertain by a Parliamentary inquiry at what prices and in what quantities it could be imported; and also, whether the remunerating prices of corn which is grown at home continued to be the same as they were when the present Corn Law was enacted.

2ndly, Because the protection which agriculture now enjoys is not greater than is requisite, is advantageous to all classes of the community, and could not be diminished without extreme injustice to those who under the faith of Parliament have invested their capital in the cultivation of land.

3rdly, Because the proposed alteration of the Corn Law would 'cause a very considerable decrease of the protection which the present duty affords to the home grower,' as was allowed to be the case by the minister who recommended that alteration.

4thly, Because a 'very considerable decrease' of the present protection would discourage British agriculture, might render this country dependant upon foreigners for a supply of the first necessary of life, and might, in the event of unfavourable seasons, expose it to the horrors of famine.

5thly, Because a 'very considerable decrease' of the present protection might produce a permanent depression in the prices of British corn, a corresponding diminution of consumption and expenditure, and a corresponding increase of the distress and discontent which now unhappily prevail.

6thly, Because the discouragement of British agriculture would be very injurious to the labourers who are now employed in tillage, and might reduce their wages, which in many districts are already much too low to provide for their comfortable subsistence.

7thly, Because it is the bounden duty of Parliament to afford due protection to those who are employed in agriculture as well as in any other branch of British industry, all of whom have a common interest to prevent the competition of foreigners in the home market.

Philip Henry Stanhope, Earl Stanhope.

James Howard Harris, Earl of Malmesbury.

Miles Thomas Stapleton, Lord Beaumont.

## DCCLXVI.

APRIL 19, 1842.

On this day the Lords went into Committee on the Corn Importation Bill, after debate and a division (207 to 71), on a proposal of Lord Melbourne's to substitute a fixed duty for a sliding scale. The debate is to be found in Hansard, Third Series, vol. lxii, p. 721.

The following protest was inserted.

Because it is contrary to the first principles of political economy to embarrass trade by restrictions or taxes tending to enhance the price of human food.

2ndly, Because the new scale of duty as to wheat and oats

favours the horses of the aristocracy in preference to the children of the poor.

3rdly, Because the landholders of Ireland, distressed and beggared by absentee landlords, rely chiefly on the sale of oats for the means of existence, and will by the proposed law be induced to give a preference to wheat, for which the climate of Ireland is little fit.

Valentine Browne Lawless, Lord Cloncurry.

## DCCLXVII, DCCLXVIII.

APRIL 22, 1842.

The two following protests were inserted after the third reading of the Corn Importation Bill. No division was taken.

1st, Because, though recognising the principle of a sliding scale, the protection to the home grower is so materially diminished by the proposed new scale of duties upon imports of foreign grain as to render the cultivation of wheat, barley, and oats upon poor soils a matter of the greatest risk and hazard, if not actual loss.

2ndly, Because the Bill, while professing to hold out a protection to agriculture, will, in consequence of the facility given to the importation of all the articles of consumption, put an end to all desire on the part of the grower to lay out his capital in permanent improvement of land with a view to increase the supply of the home market.

3rdly, Because the Bill will in its operation tend materially to diminish the comforts of the agricultural labourer, inasmuch as the farmer, obliged to abandon the hope of remunerating price for his capital expended, must necessarily shorten the number of his men, or pay them at reduced rates of wages.

4thly, Because the Bill, coupled as it is with the proposed revision of the tariff, will materially affect the means whereby the cultivation of the soil may be undertaken with any fair chance of profit, and consequently inflict great distress upon the labourers in husbandry, and generally upon those classes who depend upon the cultivation of the soil for their maintenance and support.

Thomas Atherton Powys, Lord Lilford.

Because the new Corn Bill, although it was allowed by the minister who proposed it to 'cause a very considerable decrease of

the protection which the present duties afford to the home grower,' is not accompanied, as in justice it ought to have been, by the following measures; viz.

1. The repeal of all the taxes which fall directly upon land ; the land tax, the malt tax, and the hop duty :
2. The equalization of all the rates of which the occupiers of land bear at present an undue and unfair proportion ; poor rates, highway rates, and county rates :
3. The repeal of the Tithe Commutation Act, which can no longer be just or applicable :
4. A legislative enactment authorizing all persons who hold leases to surrender them on giving six months' notice before Lady Day or Michaelmas :
5. A legislative enactment directing the payment made under every written contract to be reduced according to the proportion which the average prices of wheat under the new Corn Bill may, at the time of making such payment, bear to its average price at the time that such contract was formed, so that such payment may be of the same value as was originally intended and agreed to by the parties.

Philip Henry Stanhope, Earl Stanhope.

## DCCLXIX.

APRIL 25, 1842.

By 5 and 6 Victoria, cap. 15, an additional duty of 1s. per gallon was laid on Irish spirits, making the duty 3s. 4d. The measure seems to have roused no great amount of opposition, but the following protest was inserted against the third reading.

1st, Because the proposed increase of nearly forty per cent. upon the duties heretofore payable on Irish spirits is inconsistent with those just principles which ought to regulate taxation laid upon articles of consumption.

2ndly, Because this proposed increase of duty is at variance with the recommendations of two successive Boards of Commissioners of Enquiry appointed to report upon this subject by two successive Governments.

3rdly, Because this increase of duty is also contrary to the

experience of the last twenty years, which has proved most conclusively that the result of imposing increased duty on Irish spirits has been the diminution of spirits legally distilled, and the great encouragement of illicit distillation.

4thly, Because the practice of illicit distillation has not only been productive of loss to the revenue, but has also invariably been a fruitful source of immorality and crime, imposing upon her Majesty's troops duties subversive of military discipline, and leading to the enactment of laws of peculiar hardship, and scarcely reconcilable with the principles of the Constitution.

5thly, Because the reduced protection which the new scale of duties on foreign corn will give to home-grown oats as compared with home-grown wheat will afford additional temptations and inducements to apply oats to the purposes of illicit distillation, rendering the present a most inopportune moment for increasing the duty.

Because, from all these reasons, the estimated increase of revenue will be found a delusion, or a result which, if realized, places at risk the tranquillity of the country and the morals of the people.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

Richard Ponsonby, Bishop of **Derry and Raphoe**, for the fourth reason.

Henry Fitzmaurice Petty, Marquis of **Lansdowne**, for the second, third, fourth, and fifth reasons.

Ulick John De Burgh, Lord **Somerhill** (Marquis of Clanricarde).

Hugh Fortescue, Earl **Fortescue**, for the fourth and fifth reasons.

Arthur James Plunket, Earl of **Fingall**.

Richard Hussey Vivian, Lord **Vivian**, for the fourth reason.

Francis William Caulfield, Lord **Charlemont** (Earl of Charlemont).

Henry Prittie, Lord **Dunalley**.

Arthur French, Lord **De Freyne**.

## DCCLXX—DLXXICCI.

JUNE 21, 1842.

The third reading of Peel's Income Tax Bill in the Lords was preceded by a debate (Hansard, Third Series, vol. lxiv, p. 3), which was adjourned till the 21st of June, when a division was taken, 99 voting for the Bill, 28 against it.

The following protests were entered.

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1st, Because an income tax is justly odious from its inquisitorial nature as well as from the inequality of its pressure, and ought not to be imposed except in a case of great emergency, such as does not at present exist.

2ndly, Because an income tax may occasion a very considerable curtailment of private expenditure, and may thus extend and aggravate the present distress, which has arisen from an insufficient employment and remuneration of labour.

3rdly, Because an income tax ought to be reserved as a resource for war, when the expenditure is unavoidably such as could not be otherwise defrayed.

4thly, Because an income tax, when imposed in order to supply a deficiency in the revenue, and not to meet the exigencies of an expensive war, must convey to foreign powers a very unfavourable and injurious impression with respect to the resources of this country.

5thly, Because an income tax is not required by the deficiency of the revenue, for which a provision might have been made by imposing again some of those taxes the repeal of which had occasioned that deficiency, but had not afforded the relief that was expected.

Philip Henry Stanhope, Earl Stanhope.

1st, Because this Bill, though entitled 'Property Tax,' is in truth a tax on income, and I consider any tax on income objectionable, as being—

1. Unjust, inasmuch as it taxes to the same amount equal yearly incomes of really unequal value :
2. Inquisitorial, and necessarily requiring for its due collection such scrutiny into the affairs of individuals as is abhorrent from the feelings of Englishmen in all cases, and in many, especially in those of persons concerned in trade, inconvenient and highly injurious :
3. Demoralizing, because in divers cases it requires the oaths of parties to be made in direct opposition to their pecuniary interests, and thus holds out temptation to perjury and fraud :
4. Impolitic, as forcibly diverting a portion of the profits of



trade from productive to the support of unproductive labour ; and

5. Because I believe that the allegation that a tax on income affects the rich only, and not the poor, is altogether erroneous ; and that every tax falls, sooner or later, on the poorer classes of the people, and none more immediately than a direct tax imposed on the incomes of the employers of labour.

2ndly, Because several of the provisions of this Bill appear to me absurd, and unnecessarily unjust and impolitic :

1. By this Bill, while all the incomes enumerated in the Schedules (A), (C), (D), and (E), though of greatly varying value, are assessed at 7*d.* in the pound, incomes arising from the occupation of land are assessed in Schedule (B) at 3½*d.* (and in some cases at 2½*d.*) in the pound. The grounds of this distinction have not been explained, but the consequence must necessarily be that it gives an undue advantage to capital employed in agricultural pursuits, and tends to raise to an unnatural level the rent paid for the occupation and use of land.
2. The profits of tenants, occupiers of land, are measured by the rent due to the respective landlords—a test, as it appears to me, assumed capriciously, without any assignable reason, and the consequence of which must be, first, that a tenant who pays a low and inadequate rent will have the further benefit of being assessed at a low rate on his income, while the tenant oppressed by a high rent will have to bear the additional burden of a heavy tax ; and, secondly, that in cases where long leases of lands have been granted at low rents, in consideration of capital expended on permanent improvements, the landlord will be assessed on an income which he does not receive, and the tenant deprived of the opportunity to replace his capital ; the tendency of this provision is, to prevent the outlay of capital on permanent agricultural improvements.
3. Traders are required to return their incomes on the average of their profits for the three last years, so that the man whose business is declining will have, in aggravation of his losses, to pay more than his due proportion of the

- tax, but he whose business is thriving will have the further advantage of paying less than his proper share.
4. In this Bill I find no provision by which a man who is possessed of property, and who is also engaged in trade, may deduct the losses (if any should occur) accruing in the one case from the income arising in the other; so that he may be, on the balance of the whole, a loser, and yet be called upon to pay a tax on income, though he has none.
  5. By the third rule of the first case of the rules for ascertaining the duties contained in the Schedule (D) it is expressly enacted, that, 'in estimating the balance of profits and gains chargeable under Schedule (D), or for the purpose of assessing the duty thereon,' no allowance or deduction shall be made for, *inter alia*, any sum 'employed or intended to be employed as capital in such trade, manufacture, adventure, or concern,' or 'for any capital employed in improvement of premises occupied for the purposes of such trade,' &c. Thus the provisions of this Act are directly calculated and seem studiously drawn up to prevent any increase of trade or manufacture, either by extending the operations of the one, or by improvement in the machinery and mode of carrying on the other.
  6. This being a tax upon income, and not upon the public debt, I hold it to be equally unjust and impolitic to withhold from foreigners such portion of the interest of that debt as is due to them by the country, and for the full payment of which the faith of Parliament is pledged. In the case of British subjects the Legislature has the power to tax their incomes, from whatever source arising, and thus when those incomes are derived in the whole or in part from the interest of the public debt, it has a right to claim a portion of that interest; but to withhold from foreigners, whose incomes are beyond the control of the British Legislature, a portion of the interest due for money actually lent by them to this country on the faith of Parliament, appears to me an act of sheer dishonesty. The impolicy of such a proceeding appears to me equally

great, whether I consider the alarm which it may cause in the mind of the foreign fundholder, lest on some future occasion of pressing difficulty the whole may be confiscated, or view the proceeding as an example to other Governments for dealing with and appropriating to themselves funds belonging to British subjects in their hands.

3rdly, Because I fear that the financial difficulties, to meet which it is alleged that this tax is imposed, will, on the contrary, be aggravated by it. These difficulties arising, as I believe, mainly, if not wholly, from the depressed state of commerce and manufactures, which has now prevailed for more than four years, it seems to follow as a matter of course that the best remedy would be to remove the burdens which press most severely upon them; experience shows that the taking off of taxes does not of necessity diminish the revenue by the amount of the duties repealed; and there are many taxes which weigh very heavily on the springs of industry, more especially the duty on the importation of corn; much, therefore, might, I think, be done by relaxation of taxation, much also by modification of certain differential duties on foreign and colonial produce, which, while they impose heavy burdens on the consumer, in no degree benefit the public revenue; but the withering influence of this tax must increase the depression of all the industrious classes, and aggravate the difficulties of the country.

4thly, Because I see reason to apprehend that the object proposed to be effected by this Bill will not be attained; the imposition of the income tax is justified on the ground of raising *with certainty*, within the year, a sum of money sufficient to make good the existing deficiency of the revenue; this tax may yield the estimated sum, but it can hardly be expected that there will not be a compensating, and probably nearly equal, falling off in some other quarter, so that, on the whole, the proposed advantage will not be gained.

5thly, Because this tax, by aggravating the distress, will increase the causes of the necessity now urged for its imposition, and its continuance and re-enactment at the time at which it is now destined to expire will thus be rendered still more necessary; cause and effect will reciprocally act on each other, and all hope of being rid of this impost, and of seeing the restoration of commercial

prosperity, will be lost, and the first fatal step will have been taken towards permanently undermining the resources and destroying the wealth and power of the country.

William Pleydell Bouverie, Earl of **Radnor**.

Thomas Dundas, Earl of **Zetland**.

George William Fox Kinnaird, Lord **Kinnaird and Rossie**.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

John William Ponsonby, Lord **Duncannon** (Earl of Bessborough).

Ulick John De Burgh, Lord **Somerhill** (Marquis of Clanricarde).

Archibald Acheson, Lord **Worlingham** (Earl of Gosford).

John Campbell, Lord **Campbell**.

Valentine Browne Lawless, Lord **Cloncurry**.

George William Frederic Villiers, Earl of **Clarendon**.

Thomas Denman, Lord **Denman**, for all the reasons but that which relates to foreigners holding Stock.

William King Noel, Earl of **Lovelace**.

1st, Because in its provisions it charges short and precarious incomes in the same ratio as fixed and permanent.

2ndly, Because that, so far from being applicable to the removal of those difficulties with which the country has to contend, or the relief of those distresses which, with such intense severity, prevail universally amongst the laborious classes, it will further cripple the means of their employers, and consequently increase their destitution which the want of employment has occasioned.

3rdly, Because I have reason to believe that an inquisitorial examination into the affairs of merchants and manufacturers would, at this time, be to them particularly inconvenient, and in many instances ruinous, inasmuch as by a forced contraction of the currency, reducing the aggregate amount from £39,123,943 in 1838 to £33,014,677 in 1842, they have not only failed, during the last three or four years, to realize any net income, but have sustained unexampled and enormous losses.

4thly, That such depression of our commerce and manufactures is the real source of the defalcation in the revenue, which will be further increased by the imposition of an income tax, though it may extort from the diminished powers of the country a temporary increase of the next year's receipts.

5thly, That an income tax would therefore impede any struggles of the people to recover from their present depression, and instigate the recurrence of those periods of distress in our manufacturing

districts which have prevailed since the peace, and by degrees brought down a surplus revenue of £4,744,408 in 1822 to a deficit of £2,101,369 in 1842; and that this fall is more completely shown to have been caused by such commercial and manufacturing distress, from the circumstance of the first years of deficit being in 1826 and 1827, both years of well-known and excessive depression, and which deficit amounted to £645,919 in the former and £826,674 in the latter. Again, a deficit in 1837 reappears, which continued in each succeeding year till, 1842, it reached the amount of £2,101,369, as above stated. That the year 1837 was more particularly marked by circumstances illustrative of the opinion that the defalcation of the revenue was occasioned by commercial and manufacturing distress; in 1836, a year of great commercial activity, the revenue again exhibited a surplus of £2,130,092, which as rapidly fell to a deficit of £655,760 in 1837, and was accompanied by that same depression of commerce and manufactures, and that same distress of the laborious classes, which at present awakens the strongest feelings of commiseration and alarm.

6thly, The Manchester Chamber of Commerce, in a report they subsequently made in 1839, state the following fact:—That for some few years, down to the end of 1835, all branches of trade had been in a state of prosperity; that in the end of that year the Bank, by throwing a large amount of money held for the East India Company, and advanced on account of the West India Loan, laid the foundation for a vast increase of credit, currency, and enterprize and speculation, which prevailed in 1836; that towards the close of that year the stock of bullion in the Bank, which in 1833 had amounted to ten millions, had fallen towards the close of 1836 to little more than four millions; that the directors in consequence determined to check this fall, and endeavour to replenish their coffers; that they had consequently recourse to the only means which they declare themselves they have of so doing, namely, by reducing the circulation, and thus throwing down the price of commodities; that they did so to the extent of at least 25 per cent., and that in consequence the persons engaged in the manufacture of the five great staple commodities, of cotton, woollen, silk, linen, and hardware, sustained a loss of forty millions, in order and for the sole purpose of replacing six or

seven millions in the coffers of the Bank, this sacrifice being only a fraction of the losses simultaneously sustained by the whole commercial world, there being hardly a country in the world which our currency fluctuations do not disturb and distress ; the centre of the whole *is here* ; here is the heart which distributes the circulating blood of commerce, which influences and distresses, or supplies and supports, other countries, especially those with which we have the closest commercial intercourse, and more powerfully still our own immediate colonies ; that these proceedings on the part of the Bank refilled their coffers, and in 1838 the circulation was again increased, and commerce and manufactures revived for a time ; but in 1839 the Bank was drained of its bullion to a most alarming extent, and then its accustomed means of replacing it were again had recourse to ; the circulation was hastily and excessively reduced, and prices were thrown down with proportionate violence, and have so continued up to the present time ; the Bank thus effectively constitutes the practical standard and measure of value, varying the quantity of circulation, and consequent value, from time to time as the amount of bullion in its coffers may rise or fall, and thus defeating often the commercial operations of the most experienced and cautious persons.

Finally, because an income tax under such circumstances must further increase the embarrassments and distresses of the country to a frightful extent ; and I am decidedly of opinion that the remedy is only to be found in the establishment and maintenance of a circulating medium that shall be free from any variations of amount and consequent value, and be sufficient to carry on the enlarged and vast concerns of commerce, and distribute generally through all classes the fruits of labour and industry.

Charles Callis Western, Lord **Western**.

## DCCLXXIII.

JULY 5, 1842.

The Customs Act of 1842, 5 and 6 Victoria, cap. 47, revised the tariff, and removed prohibitory duties. It was opposed in the Lords by Earl Stanhope and the Duke of Richmond, who moved the rejection of the Bill on the second reading. There were, however, only four Not-contents (the Dukes of Richmond and Buckingham, Lords Stanhope and Beau-

mont) to 59 Contents. The debate is in Hansard, Third Series, vol. lxiv, p. 939.

Earl Stanhope inserted the following protest.

1st, Because the proposed reductions of protecting duties would be most injurious to many of the working classes in this country, and would depress their wages, or would deprive them of employment, by encouraging the importation of many foreign manufactures, which, from their cheapness, may be preferred to those that are produced at home.

2ndly, Because the working classes have a right to demand such protection to their industry as may enable them to obtain employment at adequate wages, and cannot be deprived of such protection without the most flagrant injustice, without destroying their respect for the existing institutions of this country, and without endangering the security of property of every description.

3rdly, Because a measure by which those who are employed in many branches of industry would be reduced to distress and destitution cannot be justified, although an increased importation of foreign manufactures should be accompanied by an increased exportation of some articles of British manufacture, which, like those of cotton and wool, are still protected by duties that it is not proposed to diminish.

4thly, Because an increased exportation of some articles of British manufactures could not counterbalance the injury which would result from the proposed measure by the depression in the home market, which is by far the most important and the most extensive, as well as the most secure.

5thly, Because the proposed measure would encourage an increased importation of foreign goods, which, as experience has shown, is not always accompanied by a corresponding exportation of British manufactures, and in such cases there ensues a drain of bullion which contracts the circulation of the country, checks its industry and exertions, and might place in great embarrassment and danger the Bank of England.

6thly, Because some of the proposed reductions of duties would occasion a loss to the revenue without any advantage to the consumers by a diminution of the retail prices, and other reductions are made on articles of luxury which are purchased only by the richer classes of the community.

7thly, Because the proposed reductions of the duties on timber would secure an undue advantage to that which is brought from the Baltic, the freight from thence being much lower than from the British possessions in North America, and would therefore be very detrimental to the interests of those extensive and valuable colonies which it is the duty of Parliament to protect.

8thly, Because the proposed measure, by allowing the importation of live stock, and by encouraging that of salted meat and of various articles of agricultural produce, might very much depress their prices in this country, discourage their production, and deprive those who are engaged in it of the profits or of the employment which it has hitherto afforded.

9thly, Because the proposed measure would produce such distress as might at length become intolerable, and lead to a passive resistance to taxation, and such discontent as might burst asunder all the bonds by which society is now held together, and plunge this country into anarchy and revolution.

Philip Henry Stanhope, Earl Stanhope.

## DCCLXXIV.

JULY 8, 1842.

On the third reading of the Customs Bill, the following protest was inserted.

1st, Because, fully admitting the necessity of a revision of the customs duties, and the soundness of the principles on which, in most respects, that revision is professed to have been made, I find that this Bill carries out those principles very imperfectly, and falls lamentably short of what the necessities of the times require.

2ndly, Because it expressly excepts from its operation the duties on the importation of corn, grain, meal, or flour, sugar and molasses, and omits all modification of the duties on butter and cheese imported from foreign countries, and thus will fail to afford, with respect to these essential articles, any alleviation to the present sufferings of the people.

3rdly, Because, in consequence of these omissions, the distress of many persons, who will be thrown out of employment by the alteration of the duties on certain manufactured articles, will be greatly increased.



4thly, Because I believe that by this Bill no one differential duty now existing is removed, but I find several new ones imposed, and the differences in many old ones increased, and it was argued in debate by ministers that the principle of differential duties, as applied to colonies, was a fair one, and admitted by them that the new schedule of duties imposed by this Bill was in many respects framed in conformity with that opinion ; whereas I hold all differential duties to be both inconsistent with every sound principle of financial legislation (whether enacted for the purpose of revenue, or with the view of giving aid or showing favour to colonies or foreign states), and injurious, both to the state which imposes them (as thus laying burdens on its own subjects, without any advantage to its exchequer, for the benefit of foreigners), and to the country supposed to be favoured, by holding out to its people inducements to divert capital from its natural, and therefore its most useful and profitable, to other less advantageous employment.

William Pleydell Bouverie, Earl of Radnor.

George William Fox Kinnaird, Lord Kinnaird and Rossie.

## DCCLXXV.

JULY 28, 1842.

The Act 5 and 6 Victoria, cap. 89, containing 162 clauses, was designed to promote the drainage of lands and the improvement of navigation and water power in connexion with such drainage in Ireland. It was opposed on the second reading, Lord Clanricarde moving that the second clause appointing commissioners be expunged. This motion was rejected by 30 to 6.

The following protest was inserted on the third reading.

1st, Because the Bill contains an invasion of private rights, and a control over and compulsory direction of private property, at variance with constitutional freedom, with sound political economy, and with the common law of England.

2ndly, Because a similar Bill applied to Great Britain would not, I believe, be allowed to pass one stage in either House of Parliament, and the argument, that Irish property ought to be subjected to principles of legislation not tolerated in England or Scotland, is fraught with danger to the United Kingdom.

3rdly, Because the state of agriculture in Great Britain and in

other countries, and the gradual, although not rapid improvement of Ireland, show that the interference of the Executive Government is necessary for the object of this Bill, and our experience has shown us that works of improvement performed by the Government in Ireland are done at a greater cost, and therefore with less profit, than when they are executed by private individuals.

4thly, Because this Bill is calculated to repress that spirit of private enterprize and of self-reliance which it is most desirable to introduce among all classes of the Irish people, the growth and consequences of which would afford the best security for the tranquillity of the country, and the best prospect of increasing its wealth, and to foster a habit of recurrence to the Government which originated in jobbing, and which has kept out of Ireland that desire and promptitude to unite and combine for public and local objects which has been so useful to the English and the Scotch people, and the adoption of which would ensure to the Irish great political, moral, and financial benefits.

Ulick John De Burgh, Lord **Somerhill** (Marquis of Clanricarde).

## DCCLXXVI.

FEBRUARY 9, 1843.

The Queen's Speech (the 2nd of February) called the attention of the two Houses to the facts of a declining revenue and the great depression of the manufacturing industry of the country. In the debate in the Commons on the Address, Mr. Villiers, and other advocates of Free Trade, ascribed the distress to the Tariff and the Corn Laws. In the Lords, on the 9th of February, Lord Stanhope moved that the House resolve itself into a Committee of the whole House, for the purpose of taking into its most serious consideration the present condition of the productive classes in the United Kingdom, with a view of providing for their profitable employment, and for the due remuneration of their industry. The motion was rejected by 25 to 4, and the following protest was inserted. See Hansard, Third Series, vol. lvi, p. 261.

1st, Because, under the present circumstances of the country, it is the bounden duty of Parliament to take into its immediate and most serious consideration the means of providing for the profitable employment of the productive classes, and for the due remuneration of their industry.

2ndly, Because the discharge of that duty is most urgently requisite, as many of the productive classes have, by legislative

measures, been recently deprived, to a very considerable extent, of the protection which their industry formerly enjoyed, and which they have an undoubted right to claim.

3rdly, Because that reduction of their protection has been very injurious to many of the productive classes, by depriving them of employment, or by diminishing their profits or their wages, and they are therefore entitled to demand redress, which cannot be refused without flagrant injustice.

4thly, Because the grievous distress and destitution which many of the productive classes now suffer must produce just and general discontent, and redress cannot be delayed without imminent danger to all classes of the community.

5thly, Because there exists no reasonable expectation that the prosperity of this country can be restored, that its peace can be preserved, or that profitable employment, with due remuneration, can be provided for the productive classes, unless full protection should be given to their industry, and the rights of labour.

Philip Henry Stanhope, Earl Stanhope.

George Kenyon, Lord Kenyon, for all the first reason, except that part which calls on Parliament to provide due remuneration for labour, which I fear is beyond the power of Parliament; and for the third reason.

## DCCLXXVII.

MARCH 14, 1843.

On the 14th of March Lord Monteagle moved for the appointment of a select Committee to enquire into the operation and effects of 5 Victoria cap. 14, an Act to amend the laws for the importation of corn. The debate is to be found in Hansard, Third Series, vol. lxxvii, p. 779. The motion was rejected by 200 to 78. On the same evening, in the House of Commons, Mr. Ward moved for a Committee to enquire into the 'peculiar burdens on land,' a motion which was rejected by 232 to 133.

The following protest was inserted.

Because it appears to us inexpedient to reject a motion of inquiry into the effect and operation of an Act which has not realized the declared intentions of its framers or of the Legislature, by diminishing fluctuations of prices, and securing the supply of imported grain in a manner consistent with the public interests.

Because the evils admitted to be incidental to the 9th George IV,

which it was proposed to remedy, are proved by experience still to subsist, and may therefore be traced to the principle of the sliding scale so unfortunately transferred to the 5th and 6th Victoria, cap. 14, from the antecedent Corn Law.

Because it has been proved by the experience of the last twenty-eight years that a scale of duties varying inversely with the price of corn acts injuriously to the interest of the consumer, the British agriculturist, the merchant, the manufacturer, the banker, and the foreign grower; injuriously to the consumer as inducing the owner of foreign corn to withhold his supplies from the market, whatever may be the public necessity, till the price shall have reached its maximum and the duty its minimum; injuriously to the agriculturists, and more especially to the smaller farmers, as exposing them to a forced and artificial competition with foreign grain entered for home consumption at the time of harvest, the period when such competition may be fatal to the growers without being beneficial to the public; injuriously to the importing merchant, by rendering the trade in corn a gambling adventure, rather than a commercial enterprise, the sliding scale increasing the profits of a successful speculation, and aggravating the loss of a speculation which is unsuccessful; injuriously to the manufacturer, because a casual, restricted, and uncertain import of foreign grain cannot lead to a steady and permanent demand for repayment in the produce of British industry; injuriously to the banker, as producing violent derangements in the foreign exchanges, and sudden and dangerous exports of the precious metals; and injuriously to the foreign grower, because, without the creation of a settled market, large supplies are frequently required from abroad, leading to fluctuations of price on the Continent of Europe, consequent upon the fluctuation of price the effect of impolitic laws at home, and in all cases rendering the rewards of industry precarious and uncertain.

Because a sliding scale of duty cannot be defended, either on the principle of a countervailing duty for the protection of an interest subject to special and peculiar burthens from which other classes are exempted, nor yet on the ground of a duty raised for revenue purposes for supplying the exigencies of the State in a manner the least burthensome and the most impartial.

Because the refusal of all inquiry into the effect and operation

of a law perfectly anomalous in its enactments, inconsistent with the principles of commercial freedom, and at variance with other measures which the Legislature has of late years sanctioned, leads either to the continuance of an indefensible system, or to hasty and ill-considered legislation, by which, as in the Act of the last Session, the evil admitted to exist is sanctioned and continued.

Because it is to be feared, that so long as a system of Corn Laws exists, founded upon principles practically disavowed and abandoned in our commercial and financial legislation, there cannot be any such feelings of confidence and stability as shall promote fixed contracts between landlords and tenants, essential to the best interests of both those most important classes.

Because, whilst no attempt is made to defend the principle of a sliding scale of duty, and yet all inquiry is refused into the alleged evils which it occasions, suspicions and jealousies cannot fail to augment between the agricultural and commercial parts of the population, to the grievous injury of both, and to the serious detriment of all her Majesty's subjects.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

Francis William Caulfield, Lord **Charlemont** (Earl of Charlemont).

Charles Hanbury Tracy, Lord **Sudeley**.

John Campbell, Lord **Campbell**.

Henry Fitzmaurice Petty, Marquis of **Lansdowne**.

John William Ponsonby, Lord **Duncannon** (Earl of Bessborough).

George William Frederic Villiers, Earl of **Clarendon**.

Charles Christopher Pepys, Lord **Cottenham**.

Valentine Browne, Earl of **Kenmare**.

George Eden, Earl of **Auckland**.

Archibald John Primrose, Lord **Rosebery** (Earl of Rosebery).

## DCCLXXVIII.

MAY 22, 1848.

The circumstances connected with the Townshend Peerage case are narrated in a petition presented to the Lords on the 3rd of March by Lord Charles Vere Ferrars Townshend, and printed in the Journals of that day. Evidence on the subject was taken on the 3rd of May, in support of a Bill presented (on petition) by the above-named Charles Vere Ferrars Townshend. The Bill passed and received the royal assent on the 12th of July. See Hansard, Third Series, vol. lxi, p. 412. The following protest was inserted on the third reading of the Bill.

1st, Because the Bill is an invasion of the prerogative of the Crown and of the rights of the subject; of the prerogative of the Crown, in adjudicating upon titles of peerage without any reference by the Crown or leave given for that purpose; of the rights of the subject, in adjudicating upon and disposing of private interests and property, to the exclusion of the jurisdiction of the ordinary tribunals of the country.

2ndly, Because the only cases in which the interference by parliamentary enactment in questions of private rights and property is excusable are those in which the ordinary tribunals of the country have no jurisdiction and cannot afford any remedy; but in the present case the parties for whose benefit the Bill is promoted have the same remedy as all other persons have who are interested in questions which cannot be brought to immediate decision in the ordinary tribunals; and if the inadequacy of such remedy be admitted as a reason for parliamentary interference, the same reason must apply to all such other cases, and it will be impossible, with justice, to refuse the same interference in any of them.

3rdly, Because the alleged public scandal arising from the facts in evidence, and the alleged disgraceful conduct of some of the parties to the transactions disclosed, furnish no ground for the interference by parliamentary enactment; the parties whose interests are intended to be affected by the enactment were not parties to such transactions, and the feelings which such transactions and conduct are calculated to excite ought to make Parliament particularly cautious in assuming the functions of the ordinary tribunal, in which such feelings are not permitted to operate.

4thly, Because there must be in all cases great danger in adjudicating by parliamentary enactment upon private rights and interests between adverse parties; that there will not be that absence of feeling, influence, and favour which is essential to the due administration of justice; and the difficulty and expense incident to such proceedings must confine the benefit of them to comparatively few.

5thly, Because the only remedy which Parliament is enabled to apply in the present case is in itself inadequate, and affords no inducement for departing from the ordinary mode of administering

justice; the necessary omission of the youngest child, because he has not attained the age of twenty-one years, proving that the remedy cannot be applied until twenty-one years after the commencement of the grievance by the birth of the child whose legitimacy is disputed, and the effect of the enactment being only to substitute the youngest child, so omitted, in the place of the eldest, leaving the succession to the titles and estates in question subject to future litigation on behalf of such youngest child.

Charles Christopher Pepys, Lord **Cottenham**.

William Courtenay, Earl of **Devon**.

William Pleydell Bouverie, Earl of **Radnor**.

Ulick John De Burgh, Lord **Somerhill** (Marquis of Clanricarde).

William Forward Howard, Earl of **Wicklow**.

William Lewis Hughes, Lord **Dinorben**.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

## DCCLXXIX.

JULY 4, 1843.

By 6 and 7 Victoria, cap. 29, Canadian wheat was allowed to be imported into the United Kingdom at 1s. per quarter duty. The Canadian Legislature had imposed a 3s. duty on foreign wheat imported into the province. The following protest was inserted on the motion for going into Committee on the Bill. See Hansard, Third Series, vol. lxx, p. 571. The motion was carried by 57 to 25.

1st, Because a fixed duty of only 1s. per quarter would, under the proposed measure, be payable on the importation into the United Kingdom of wheat which is grown in Canada, and which might hereafter be sent to the British market in such large quantities as would be very injurious to the home-growers.

2ndly, Because the duty of 5s. per quarter, which at the present price of wheat, and by the existing law, is now payable on Canadian wheat, would thus be reduced to one-fifth of its amount, although under the payment of that duty, and during a considerable number of successive weeks, a much larger quantity of colonial than of foreign wheat was lately entered for home consumption.

3rdly, Because the duties that are now payable on wheat under an Act passed in the last Session of Parliament are and have been found by experience to be utterly insufficient for the protection of the home-growers, and cannot be still further reduced without

additional injustice, and without inflicting greater injuries on them and on the other industrious classes of the community.

4thly, Because a still further reduction of that remnant of protection which is yet left to the agricultural classes of the United Kingdom would increase the general mistrust which now prevails amongst those who have invested their capital in the cultivation of land, and might still more depress the price of wheat.

5thly, Because no parliamentary inquiry has been instituted, and no satisfactory evidence has been obtained, with respect to the prices at which wheat can be grown in Canada, and imported from thence into the United Kingdom; and without such inquiry and information Government ought not to have recommended the proposed measure, and Parliament ought not to proceed with it.

6thly, Because Canada, which, like all other British colonies and possessions, ought to be treated with more favour than any foreign country, is placed under very different circumstances from those of the United Kingdom, is much less burthened with taxes, and ought not to be allowed to injure the mother country by depressing the prices of its produce in the home market.

7thly, Because the proposed measure is not required for the prosperity of Canada, which would be best promoted by restoring to it those advantages, with respect to its trade in timber, of which it was most unjustly deprived by the new tariff.

Philip Henry Stanhope, Earl Stanhope.

Charles Lennox, Duke of Richmond, for all the reasons except the second.

George Kenyon, Lord Kenyon, for all the reasons except the second.

Miles Thomas Stapleton, Lord Beaumont.

DCCLXXX, DCCLXXXI.

JULY 17, 1843.

The Earl of Aberdeen moved the third reading of a Bill entitled 'An Act to remove doubts respecting the admission of Ministers to Benefices in Scotland.' The Bill became 6 and 7 Victoria, cap. 61. The Act was intended to obviate some of the dissatisfaction which led to the disruption and the establishment of the Free Church.

The Bill passed the third reading without a division, when the following protests were entered.

1st, Because the Bill, so far as it professes to be declaratory, declares to be law that which is not now the law of Scotland.



2ndly, Because the Bill, so far as it professes to be enactive, contains provisions which confer undue power upon the Church Courts, and are derogatory to the existing rights of patrons.

Charles Christopher Pepys, Lord **Cottenham**.

John Campbell, Lord **Campbell**.

Thomas Dundas, Earl of **Zetland**, for the second reason.

George William Lyttelton, Lord **Lyttelton**, for the first reason.

Henry Bickersteth, Lord **Langdale**.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

John Campbell, Marquis of **Breadalbane**.

John William Ponsonby, Lord **Duncannon** (Earl of Bessborough).

Because this Act interferes with the concerns of the Church in a way that is inconsistent with its spiritual independence ; it being unconstitutional for the Legislature to make any alteration in the government and discipline of the Church, or to prescribe the forms of the procedure of its courts, without the co-operation and sanction of the Church itself.

Because it is a fundamental principle of the Church of Scotland that no minister be intruded on a parish contrary to the will of the congregation ; whereas by the present Bill this principle is wholly set aside, and another, viz. that no minister be appointed to a parish contrary to the will of the Presbytery and other Church Courts, is established in its place, thus subverting an essential Article of the Presbyterian Church.

Because by this Act both the Crown and lay patronage will be substantially transferred into the hands of the Presbyteries of the Church, thus creating an ecclesiastical domination subversive of the principles of civil liberty, and wholly repugnant to the principles of the Presbyterian Church.

John Campbell, Marquis of **Breadalbane**.

## DCCLXXXII.

AUGUST 21, 1843.

The third reading of the Customs Bill (6 and 7 Victoria, cap. 84) was taken on this day. The following protest was entered.

1st, Because the proposed measure would allow the free exportation of machinery, which is now absolutely prohibited, and which ought as far as possible to be entirely prevented, since foreign manufac-

turers would be thus enabled to improve the quality and to reduce the price of their goods, and to acquire an advantage which this country ought to retain for its own manufacturers.

2ndly, Because it may reasonably be expected that the proposed measure would render it far more difficult than it is at present for the manufacturers of this country to compete with those of the Continent, and that it might even enable the latter to undersell the former in the home market.

3rdly, Because the benefit, whatever it may be, which those who make machinery might derive from its free exportation, would be very far counterbalanced by the injury which would be sustained by those who employ such machinery in this country, and could not, even in the contrary supposition, justify a measure which would impoverish one class of the community for the profit of another.

4thly, Because by the proposed measure goods might be imported in any vessels into Hong Kong, and the same advantages would thus be conferred upon foreigners which are enjoyed by British subjects in trading with that island; and this would be very detrimental to the shipping interest, as foreign vessels are built, repaired, victualled, and navigated at a much smaller expense than those of the United Kingdom.

5thly, Because the proposed measure would inflict a further injury upon the shipping interest, by allowing colonial fishery ships to come direct from the fishery to the United Kingdom, and to enter their cargoes in like manner as vessels clearing out from that Kingdom.

Philip Henry Stanhope, Earl Stanhope.

DCCLXXXIII.

FEBRUARY 15, 1844.

The Queen's Speech (1st of February, 1844) contained several clauses relating to Ireland. It asserted that the Union should be maintained inviolate, that Parliament should adopt measures for improving the social condition of the island, forbears to observe on events pending before a proper legal tribunal, refers to the occupation of land there, and adverts to the fact that a Commission of Enquiry on that subject has been appointed, calls attention to the system of registration, and suggests an extension of the county franchise there. On the 13th of February Lord

Normanby made the following motion, 'That this House having, in answer to her Majesty's most gracious Speech, assured her Majesty that they entered into her Majesty's feelings in forbearing from observation on events in Ireland in respect to which proceedings are pending before the proper legal tribunal, feel it in consequence to be their duty to take the earliest opportunity, when no prejudice can arise therefrom in the minds of the jury, to record their intention to examine into the causes of the discontents now unhappily so prevalent in that country. That with a view to the removal of existing evils and the restoration of confidence this House look to the development of the only true principles of a perfect union, by securing to her Majesty's subjects, of all classes and persuasions, in all parts of the United Kingdom, the practical enjoyment of equal rights.' The debate (see Hansard, Third Series, vol. lxxii, pp. 602 and 859) was continued for two days, when Lord Normanby's motion was rejected by 175 to 78. At the same time, in the Commons, Lord John Russell moved that the House resolve itself into a Committee of the whole House to consider the state of Ireland. His motion, after a debate of nine nights, was rejected by 324 to 225.

The following protest was entered.

Because the military occupation of one-third of the United Kingdom, avowedly on the ground of the general discontent of the people, is a state of things which calls for the immediate attention of that legislature to which are intrusted the interests of the whole of the United Kingdom.

Because those discontents are not confined to that portion of the Irish people who advocate the repeal of the Union, nor even to our Roman Catholic fellow-subjects alone. The grievances of the country are felt strongly, and stated distinctly, by some, the highest in rank and most influential in position of the residents in Ireland, of all religious persuasions.

Because the attempt to govern a country possessing the framework of free institutions through the exclusive influence of a small minority never did and never can succeed.

Because no satisfactory explanation has been given of the vacillation and subsequent rashness shown by the Government in dealing with the present agitation in Ireland.

Because the recent legal proceedings in Ireland have been conducted in a manner which deprives them of that support in public opinion which belongs to the due administration of justice.

Because the measures announced by her Majesty's Government, even if admitted to be in a right direction, are utterly inadequate to meet the legitimate wants of the Irish people.

Because from the system pursued during the first four years of her Majesty's reign the value of property in Ireland had increased, from the tranquillity produced by the confidence of the people in the impartial administration of the laws. Since then Ireland has become the chief difficulty of the Executive; and for this reason, that those who as legislators had previously impeded the full extension of equal laws, have since, in the conduct of the Government, neglected to secure to that people the practical enjoyment of equal rights.

Constantine Henry Phipps, Marquis of **Normanby**.

Thomas Spring Rice, Lord **Monteagle of Brandon**, for the second, third, and sixth reasons.

William Lewis Hughes, Lord **Dinorben**.

George William Frederic Villiers, Earl of **Clarendon**.

Nicholas William Ridley Colborne, Lord **Colborne**.

John Campbell, Lord **Campbell**.

Charles Pelham, Earl of **Yarborough**.

Henry Fitzmaurice Petty, Marquis of **Lansdowne**, for the second, third, and sixth reasons.

Thomas Atherton Powys, Lord **Lilford**, for the second, third, and sixth reasons.

Thomas Henry Foley, Lord **Foley**.

Edward Vernon Harbord, Lord **Suffield**.

Miles Thomas Stapleton, Lord **Beaumont**, for the sixth reason.

Thomas Stonor, Lord **Camoys**.

John Lumley, Earl of **Scarborough**.

William Pleydell Bouverie, Earl of **Radnor**, for the sixth reason.

Charles Crespigny Vivian, Lord **Vivian**, for the second, third, fourth, fifth, and sixth reasons.

Hugh Fortescue, Earl **Fortescue**.

George Henry Roper Curzon, Lord **Teynham**, for the first and sixth reasons.

George Eden, Earl of **Auckland**.

## DCCLXXXIV.

MARCH 29, 1844.

One George Millis, a member of the Irish Establishment, was married in January 1829 to Esther Graham, by John Johnstone, Presbyterian minister of the congregation of Tullylish, in the county of Antrim. The marriage was performed according to the rites of the Irish Presbyterian Church in Mr. Johnstone's house at Banbridge. The parties lived together for two years. On the 24th of December, 1836, Millis married Jane Kennedy, in the parish church of Stoke, Devonshire, Esther Graham being still alive. Millis was tried for bigamy at the Antrim

spring assizes 1842, and the jury found a special verdict. The indictment and special verdict were moved by writ of *certiorari* into the Irish Queen's Bench, when a majority of the judges decided that the first marriage was invalid, though at first the court was equally divided. A writ of error was brought to the Lords, and the opinions of the judges asked as to the validity of such marriages. The case of *Reg. v. Millis* occupied much of the attention of the Lords in 1843, but at the close of the Session it was adjourned *sine die*. It was taken up anew in 1844, and on the 29th of March three of the Law Lords were for reversing the judgment of the Irish court, and three were for affirming it. Hence, according to the rule that an equality of votes *semper presumitur pro negante*, the Irish judgment was affirmed. See for the proceedings in Ireland Dix's report of the cases *Reg. v. Millis*, and *Reg. v. Carroll*, and Clarke and Finnely's cases, vol. x, p. 534. Lords Brougham, Denman, and Campbell upheld the first marriage. The Chancellor, Lord Cottenham, and Lord Abinger expressed a contrary view. The effect of the judgment was to wholly modify the theory of the English marriage law, and to necessitate the performance of the service by a minister of the Established Church. The opinions of the judges and others are to be found in vols. lxxiv and lxxv of the Lords' Journals, in the appendix.

The following protest was entered.

Because it appears by the special verdict that George Millis, before his second marriage, the regularity of which is not questioned, had been married to Esther Graham by a Presbyterian minister, who, they believed, had authority lawfully to marry them; and that, having intended to enter and believing that they had entered into present marriage, without contemplating any further ceremony to complete their marriage, they cohabited together as husband and wife. And, there being no statute to affect the validity of such a marriage in Ireland, it is valid by the common law of England, which is admitted to be the law of Ireland upon this subject.

Because the only objection made to the validity of this marriage is, that it was not solemnized by a priest episcopally ordained. And by the common law of England it was not necessary to the validity of a marriage that it should be solemnized by a priest, although, to be regular, there are canons requiring that it should be solemnized by a priest in the face of the Church.

Because it is admitted that before the Reformation the validity of marriages was a matter of ecclesiastical cognizance in England as well as in the rest of Europe, and that, by the canon law regulating marriage all over the continent of Europe prior to

the council of Trent, the presence of a priest was not necessary to a valid marriage. And this law must necessarily have prevailed in England, all ecclesiastics, members of the Western Church, being governed by the same law, and the appeal from their decisions being to Rome as the court of last resort.

Because, the presumption being in favour of the validity of this marriage, the onus lies upon those who question it to prove its invalidity. And there is no instance in the annals of the law of England in which the parties having intended to enter into present matrimony, and believed they had done so, and had lived together as man and wife, their marriage has been held invalid on the ground that it was not solemnized by a priest in orders; and the necessity for the presence of a priest in orders, to prevent the marriage from being invalid, is not laid down by any institutional writer treating of this branch of the law of England.

Because the relation constituted between George Millis and Esther Graham, by their marriage and cohabitation as husband and wife, is materially different from that subsisting between a man and a woman who have merely contracted to marry *per verba de praesenti tempore*, meaning that they shall be irrevocably engaged to each other, but that a marriage ceremony shall be performed between them before they live together as husband and wife. And the marriage between George Millis and Esther Graham cannot properly be considered as a mere pre-contract, which, according to all the statutes and decisions upon the subject, was an executory engagement.

Because it is admitted that where a man and woman entered into marriage, and lived together as husband and wife, without the intervention of a priest, the Church in England always considered the relation between them *verum matrimonium*, insomuch that they could not be proceeded against for fornication, that they could only be compelled to celebrate the existing marriage in the face of the Church, and that if either of them before such celebration cohabited with another this cohabitation was censured as adultery; and because the commerce between persons so married without the intervention of a priest being acknowledged by the Church to be that of husband and wife, the issue could not be considered illegitimate. And applying this decisive test to try the validity of the marriage, it must have been considered valid.

Because of the only two cases leading to a contrary conclusion, which occurred in the reign of Edward I, we have no satisfactory statement, and they cannot be at all relied upon, for they would show that a marriage solemnized by the priest of the parish, or by a bishop, in a private dwelling, was a nullity, this being entirely contrary to the doctrine now contended for on behalf of the defendant, which allows that for all purposes such a marriage, before Lord Hardwicke's Act in the year 1753, would have been as valid as if celebrated in the face of the Church.

Because the other authorities relied upon may be reconciled to the doctrine, that by the common law of England, if parties were so minded, they might have entered into a valid marriage without the intervention of a priest; and, at any rate, are greatly outweighed by the authorities on the other side.

Because, although marriage, according to the doctrine prevailing when the common law took its origin, was a sacrament, some sacraments might be administered without the intervention of a priest; and it is expressly laid down by canonists of undoubted authority that the sacrament of marriage might be administered by the parties to each other reciprocally.

Because the prevalence of the notion of the necessity for the intervention of a priest may well be accounted for by the canons of the Church in favour of regular marriages, and from the laudable custom of parties generally wishing to join in a religious ceremony when they enter into such a solemn engagement.

Because the position, that a marriage to be valid must have been solemnized *per presbyterum sanctis ordinibus constitutum*, is disproved by the admission, that, since the reformation, a valid marriage might be celebrated by a deacon; and because the explanation of this circumstance, that the law was changed at the Reformation, is quite unsatisfactory, as the Church had no power to alter the law of marriage, and never attempted by any canon to alter it; and no power to solemnize marriage is conferred upon a deacon by the Act of Uniformity or any other legislative enactment.

Because the class of clergymen who are alleged to be necessary and sufficient for the solemnization of marriage not being confined to clergymen ordained by Bishops of the Church of England, but including all who, according to the opinion of theologians, are

to be considered apostolically ordained, and, amongst others, Roman Catholic priests before they have renounced the errors of the Church of Rome and been admitted into the Church of England, no certain rule is laid down for the guidance of the public with respect to those who are duly qualified to solemnize marriage between English subjects in countries where the English statutes respecting marriage do not prevail.

Because it is admitted on behalf of the defendant that a marriage solemnized by a person believed by the parties to be a priest in episcopal orders was valid, although in truth he was not in orders; while it is contended that the marriage solemnized by a Presbyterian minister, who the parties believed to be sufficiently authorised to solemnize it, is a nullity.

Because the marriages of Quakers and Jews, excepted from the operation of Lord Hardwicke's Act, have ever been considered to be and are valid; and their validity is wholly inconsistent with the position, that there can be no valid marriage without the intervention of a priest in orders.

Because this position is again disproved by the doctrine which judges of the highest authority have often laid down, and which is not disputed, that in countries where the attendance of such a priest cannot be obtained a valid and regular marriage may be entered into by the consent of parties before witnesses.

Because the Legislature, in passing Acts of Parliament respecting marriages in Ireland and India, the prior validity of which depended upon the same principles as the validity of the marriage in question, has declared them to be valid, thereby admitting their prior validity.

Because it had been considered by all legal writers of authority in England, for a century, that by the common law of England the consent of the parties without the intervention of a priest was sufficient to constitute a valid though not a regular marriage; and this doctrine, being authoritatively promulgated by Lord Stowell in the case of *Dalrymple v. Dalrymple*, had been adopted by every Judge in England who subsequently had occasion to lay down the law upon the subject, including Lord Ellenborough, Lord Tenterden, Lord Chief Justice Gibbs, Sir John Nicholl, Sir Herbert Jenner, and Lord Eldon.

Because there have been many convictions for bigamy in Ireland



where the first marriage was solemnized by a Presbyterian minister, although both parties were not Dissenters, and the persons so convicted have been sentenced to transportation, and some of them are now undergoing the punishment awarded to them.

Because the noble and learned Lords by whose opinion this judgment is affirmed admit that they are obliged to overrule authorities to which the greatest respect is due. All the recent authorities are uniformly in favour of the validity of the marriage in dispute. Upon all questions it is desirable, that when the law has once been considered settled by judicial decision it should not again be disturbed; and this is particularly the case with respect to the law of marriage, for the sake of honourable women and innocent children.

John Campbell, Lord Campbell.

## DCCLXXXV.

APRIL 1, 1844.

A Bill was introduced by the Government, in the Lords, under the title 'An Act to consolidate the jurisdiction, and improve the practice of the Ecclesiastical Courts of England and Wales, and for otherwise altering and amending the law in certain matters ecclesiastical.' The Bill passed the Lords, only one division taking place on it, and was debated in the Commons on the 31st of May. It was afterwards dropped.

The following protest was entered against the third reading.

1st, Because the Bill does not abolish, but tends to perpetuate, the system of diocesan courts for purposes of probate and administration, and contentious litigation, the abolition of which for those purposes was recommended by a report made in the year 1832 by the commissioners appointed to inquire into the practice and jurisdiction of the ecclesiastical courts of England and Wales, by the fourth report made in 1833 by the commissioners appointed to inquire into the law of England respecting real property, by the report of a select committee of the House of Commons appointed to inquire into the office and duties of the judges of the prerogative court, and of the high court of admiralty, and of the dean of arches, and of the judge of the consistory court of London, and by the report of a select committee of this House in the year 1836, appointed to consider the petitions respecting a Bill to consolidate

the jurisdiction of the several ecclesiastical courts of England and Wales into one court, and was sanctioned by this House by the second reading of the same Bill, and by the House of Commons by the second reading of a Bill for the same purpose in the last session of Parliament.

2ndly, Because the evils arising from the rules respecting *bona notabilia*, and from the jurisdiction of inadequate tribunals, in matters affecting the most important interests of the subject, are inseparable from the system so proposed to be continued and established by this Bill.

3rdly, Because it is proposed by this Bill to give to persons acting as judges of the diocesan courts (who are not to be appointed by the Crown) the power of attachment and committal of the person to any of her Majesty's gaols, without any adequate provision for the liberation and discharge of persons who may be so committed.

Charles Christopher Pepys, Lord Cottenham.

John Campbell, Lord Campbell.

George William Frederic Villiers, Earl of Clarendon.

Thomas Spring Rice, Lord Monteagle of Brandon.

Henry Fitzmaurice Petty, Marquis of Lansdowne, for the first reason.

Nicholas William Ridley Colborne, Lord Colborne, for the first reason.

## DCCLXXXVI.

MAY 3, 1844.

Mainly in consequence of the excessive and costly litigation which had been carried on in the case of Lady Hewley's charity, a Bill was introduced into the Lords, the main feature of which was that the tenets entertained by the congregation of any chapel for the last twenty-five years should, in the absence of any express words in a trust deed to the contrary, be held to be proof of the denomination to which the congregation belonged. The Bill was read a third time in the Lords on the 9th of May, by 44 to 9, and its second reading in the Commons on the 6th of June, by 307 to 117. See Hansard, Third Series, vol. lxxv, p. 319. It is 7 and 8 Victoria, cap. 45.

The following protest was made in going into Committee.

1st, Because usage has, with the best reason, never before been suffered to prevail against the purposes of a charitable trust; inasmuch as in such a case adverse usage is only a series of malversa-

tions of the trustees ; and to give not only impunity, but triumph to such proceedings, is to encourage by Act of Parliament the violation of all public trusts, and the perversion of all charities.

2ndly, Because the Bill, in its main provision, proceeds on the principle of disregarding the intentions of the founders of the charities in question ; it is only in cases where these intentions can be ascertained that the measure will have any effect ; for, in other cases, where the intention cannot be ascertained, usage would of course prevail, and so the Bill must be altogether nugatory, except to defeat the ascertained intentions of founders.

3rdly, Because the distinction drawn between those cases in which the particular purposes of the trust are declared in express terms, and others in which, being ambiguous, they can be ascertained by the aid of external evidence, is contrary to the principle which has been declared by the present Lord Chancellor not only to be ' uniformly acted upon in our courts of equity,' but also to be ' founded in common sense and common justice.' To introduce an opposite rule, and apply it to existing trusts, is to make an *ex post facto* law, subverting the rights of the proper beneficiaries, as well as violating the intentions of founders.

4thly, Because the alleged grievance may be redressed by a much less extensive enactment. If there be any meeting houses which can be shown to have been founded for religious worship not tolerated by law at the time of their foundation, but which has since been admitted to toleration, and if it be deemed right to quiet the titles of the possessors of such meeting houses, it cannot be difficult to devise a measure which shall secure that object, without violating principles which have hitherto been deemed inviolable.

5thly, Because the alleged reason for this measure, a wish to prevent litigation, ill accords with the provision for effecting it. ' The usage of the congregation frequenting the meeting house' during years is to ' be taken as conclusive evidence of the religious doctrines or opinions for the preaching or promotion of which such meeting house was founded.' Yet of all conceivable incitements to litigation none more stimulating can be devised than the uncertainty of such usage, and the facility of shaking the proof of it. Neither can such a provision be satisfactory to those who demand an alteration of the present state of the law. For, to fix the religious

doctrines to be taught in such meeting houses by the usage of years past,—which is in effect mere tradition, the tradition of a brief number of years, and the authority, it may be, of a single preacher, is not only unreasonable in itself, but contradicts the principle claimed by a large portion of the petitioners, that they shall use these meeting houses ‘according to the free exercise of their private judgment, and the right of free inquiry in all matters of religion, unshackled by any rule of faith or worship.

It is, moreover, irreconcilable with the allegations of fact set forth by the soberest advocate of the measure, that ‘in such bodies as dissenting congregations, with no effective Church government, and no power to lay down binding rules of faith, fluctuations of doctrinal opinion, in long periods of years, are in the nature of things unavoidable.’

6thly, Because this measure, thus contrary to the established principles of law and equity, is notoriously introduced to quiet the titles of parties, who have usurped meeting houses, built for the worship of the true God, and have perverted them to an use, which their founders could not but have deprecated as profane and impious.

7thly, Because in avowed favour to a class of persons who deny the deity of our Lord and Saviour Jesus Christ, a construction is by implication put on the 53 G. 3, c. 160, which that Statute never received in a court of justice, and which is contrary both to high legal authorities and to the known intention of at least one of the two Houses of Parliament, which passed it; namely, that ‘to deny any one of the persons of the Holy Trinity to be God,’ being ‘unlawful prior to the passing of that Act,’ was thereby made to be no longer unlawful;—whereas the Statute of 9 and 10 W. 3, c. 32, the provisions of which were then in part repealed—a Statute enacted at a time when Lord Somers, the most ardent and enlightened advocate of true and just toleration, was Lord High Chancellor of England,—did not constitute, but solemnly recognise, the previous criminality of such a denial.

It is an Act entitled ‘An Act for the more effectual suppression of blasphemy and profaneness.’ Its preamble characterises the opinions against which it is directed as ‘blasphemous and impious opinions, contrary to the doctrines and principles of the Christian religion, greatly tending to the dishonour of Almighty God, and which may prove destructive to the peace and welfare of this

kingdom.' It proceeds to enact 'that for the more effectual suppressing of the said detestable crimes' (thus manifestly implying, that they were before, and if that Act had never passed, unlawful), 'whosoever having made profession of the Christian religion within this realm, shall by writing, printing, teaching, or advised speaking, deny any one of the persons of the Holy Trinity to be God,' he shall incur certain heavy penalties, which have been subsequently repealed.

8thly, Because even if, with all statutory penalties, all liability to indictment was removed by the 53 G. 3, c. 150, yet the denial in question is notoriously a heresy of the gravest and most malignant character, and, as such, is contrary to the common ecclesiastical law, which according to every authority which can be cited, is as truly a part of the law of the land, as the common temporal or statute law.

Lastly, Because the violation of such principles, for such an object, can hardly fail to excite in the people an apprehension of the readiness of the legislature to sacrifice the most approved rules of law, and the most sacred interests of religious truth, to a temporary and fancied expediency. It not only wounds the conscience, and outrages the feelings, of those who adhere to the true faith, as it has in all ages been held by the law of every one of the three realms, comprised in this United Kingdom and Empire; but it also contradicts the fundamental and hitherto unquestioned principle, that the Christian religion is the basis of the law of England: for this Christian religion is declared in the Act of Toleration itself, to be the faith of the Holy Trinity: that Act, in substituting a declaration in lieu of oaths to those who scruple the use of oaths, requires them to 'subscribe a profession of their Christian belief in these words. I, *A. B.*, profess faith in God the Father, and in Jesus Christ His Eternal Son, the true God, and in the Holy Spirit, One God, blessed for evermore.'

Henry Phillpotts, Bishop of Exeter.

DCCLXXXVII.

MAY 23, 1844.

The Bill authorising the construction of a railway from Lancaster to Carlisle was passed in this year. It was warmly opposed by Lord

Brougham, who objected to its proximity to his own home, and who introduced into the Bill on the report a clause allowing a landowner to construct two gates over the northern road. See Journal for the 29th of April. To this clause the Commons objected, and insisted on their objection. The Lords, by 34 to 32, refused to insist on their amendment, and the following protest was entered.

1st, Because the reasons assigned by the Commons are wholly insufficient. They proceed mainly on a gross and palpable error in law; namely, the assumption that there is in law a difference between railway bills and road bills; whereas a railway bill is to all intents and purposes a road bill, unless in so far as some special provision may have been made for railway bills in some particulars, and it is not pretended that the amendment in question came within the scope of any such provisions.

2ndly, Because, in so far as it is alleged that the gates sought to be erected were not on the railway, but on another road, that road was most materially affected by the railway, its traffic being very greatly diminished, and the road becoming more like an occupation or private road than a turnpike road, and the gates were only to be erected after the completion of the railway.

3rdly, Because, in so far as want of notice is alleged, the like leave to erect gates has been given in former instances by private Acts of Parliament, without any such notice.

4thly, Because the projectors of the present Bill had agreed to have such a clause inserted as a condition of the intended opposition being withdrawn, and had represented that they had stated the clause to many; it was said fourteen persons, several of whom were turnpike trustees of the old road in question.

5thly, Because, whether the Commons were right or wrong, such clause having been a condition made to the withdrawing of opposition, the refusal to agree to the Amendment ought to have been regarded by this House as a termination of the contract, whatever might be the cause of such refusal; and the party who had made the contract in favour of the Bill on the condition of the clause passing should have been let in to oppose the Bill; or if that could no longer be done in this stage, the Bill ought not to have been passed without his consent, which should have been obtained on some other equivalent condition.

6thly, Because it is of the utmost importance, to prevent frauds, and to protect individuals from the most grievous oppression, that

the most perfect good faith be always kept between projectors of works applying for private Acts of Parliament to arm them with extraordinary powers, and private parties with whom they bargain respecting their assent or opposition to such Bills.

7thly, Because the projectors of this work undertook to have the clause passed, and this was part of their bargain with the private party; and if they had fairly applied to the road trustees, and given them due notice, no deception could have been practised, and no objection could have been taken either by the trustees or the Commons.

8thly, Because all that was asked in the Lords, when the present motion was made, was a delay which could not possibly have prevented the Bill from passing by the space of above one day, and the delay was asked on the express ground that material evidence was ready to be produced which must have affected the question, whether the Commons' amendments should be agreed to or not.

9thly, Because the Bill was thus in an unprecedented manner hurried through, in the face of a notice given in the House that a Select Committee would immediately be moved for, to consider what had been the conduct of the promoters of the Bill, grave allegations being made that the opposition had been originated either by them or in consequence of their proceedings, in entire breach of their contract with the private party.

10thly, Because this House has never, even in its legislative capacity, decided without hearing, unless where the matter in question was really a cover for some party proceeding, and was not the true subject of deliberation; but in its judicial or quasi judicial capacity, and when dealing with rights of property and claims of parties interested, it has never, save in this instance, decided without hearing those parties.

Henry Brougham, Lord Brougham and Vaux.

DCCLXXXVIII, DCCLXXXIX.

JUNE 3, 1844.

The third reading of the Factories Bill was carried on this day. It became 7 and 8 Victoria, cap. 15. The Act contains seventy-four clauses. The third reading was moved by Lord Wharnccliffe. See Hansard, Third Series, vol. lxxv, p. 135.

The following protests were inserted.

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1st, Because the provisions of this Bill are inconsistent with the freedom of the subject, inasmuch as they presume to limit contracts which adult persons, as free agents, have a right, as the law now stands, and as reason dictates, to regulate for themselves.

2ndly, Because they prescribe rules for the employment of young persons, and thus tend to weaken parental authority, and to diminish the obligation of parental care.

3rdly, Because they interfere with the economical arrangements of trade, and thus tend to cramp the energies and check the operations of the manufacturers, whose efforts, directed to the attainment of wealth for themselves, could, if left alone, be made, by the beneficent dispensations of Providence, to contribute to the power and greatness of the country, and to the increased wealth and the moral and physical improvement of the people.

4thly, Because the provisions of this Bill do in each of the foregoing particulars diminish the moral and legal responsibilities of the individuals to which they apply :—

1. Of adult persons, in the care to apportion the labour they undertake to their own physical powers, and to the calls on them for exertions in behalf of themselves, or of those dependent on them, whether for support and maintenance, or for moral and intellectual instruction.
2. Of parents, in the direction and management of their children, and in providing for their necessities and wants.
3. Of masters towards their workmen, in regulating their respective manufactories in the manner which shall be most advantageous to themselves and satisfactory to those who are employed.

5thly, Because, as different individuals are endued with different degrees of strength and powers of exertion, it is manifest that a law confining within the same limits the tasks to be performed by different persons must act unjustly, as the task which is not too heavy for some will be unnecessarily light for others. Will presumptuous man pretend to reduce to conformity and equality that which God Almighty has made unequal and diverse ?

6thly, Because, by enforcing the same regulations in all factories, this Bill, if it does not deprive the masters of an opportunity, at least must very much check their desire, of contending with each other in the making of such improved regulations as their own



benevolence or interest might dictate, for the benefit of those employed by them, and which, by rendering employment in their mills more acceptable, would promote their own interest and the good of their workmen, and necessarily lead the way to similar improvements in other establishments.

7thly, Because it is an interference with trade, which can only flourish if left perfectly free and unshackled; and because, though from particular circumstances trade may survive and even increase in spite of great disadvantages, restraints, and legal impediments (and has in this country actually done so), the full benefit of it either to individuals or the country can never be attained without the most complete liberty of action.

8thly, Because this is a new and further step in the progress of interference, and in debate was justified by arguments which would call for still further steps; and because it appears to us that if the Legislature did anything it ought to proceed in precisely the opposite direction.

9thly, Because the measure is partial, and therefore unjust. If the regulations it enacts are required in the factories, they, or others of the same nature, are at least equally required in other trades and in the agricultural districts.

10thly, Because the objects which this Bill seeks to obtain may be much better accomplished by measures of a totally different nature, by repealing the laws which press unfairly on the springs of industry, and unjustly raise the price of the necessaries of life. If the labouring people of this country were enabled to command abundance of food, a sufficiency of employment for themselves, and education for their children, they would take good care to secure themselves against oppression, and to provide for themselves and their families adequate employment, and both intellectual and moral instruction.

11thly, Because, lastly, many of the clauses of this Bill contain paltry and ridiculous regulations, wholly unworthy of the attention of the Legislature of a great country.

William Pleydell Bouverie, Earl of Radnor.

George William Fox Kinnaird, Lord Kinnaird and Rossie.

1st, Because all reason and all experience have pronounced clearly and absolutely against interfering by laws, with the right which individuals have to employ their capital and their labour according to their own views of their own interest; and so long as no immorality is committed, and no encroachment is made upon the rights of others, all persons are entitled to dispose of their property and direct their industry as they think most conducive to their own benefit or their own comfort.

2ndly, Because, of the two, labour ought to be the most scrupulously protected from all interference, inasmuch as it constitutes the sole possession and only power of the great bulk of the people, inasmuch as the labourer cannot flee, like the capitalist, from vexatious oppression, and inasmuch as any interference with his free exertion operates directly upon the great mainspring of the whole social machine, producing consequences which can neither be foreseen nor counteracted, and affecting interests the most serious, extensive, and remote.

3rdly, Because the folly of all such interference with capital and labour is as glaring as its injustice, there being no one truth in any branch of science more incontestible than this, that individuals can judge far better of their own interests, whether as regards their gains or their health or their comforts, from their nearer perception and perfect knowledge of all the circumstances upon which their interests depend, than the rulers, who can only see the same things from a distance, and in the general, and it being a truth equally beyond dispute, that individuals will always pursue their own interests more unremittingly than the State, which has neither the means of providing for each man's benefit, nor the constant incentive of personal feelings to keep its care and attention ever awake.

4thly, Because the present measure affords a proof how dangerous it is for the Legislature ever to take any step in a wrong direction, and depart from sound principles under the influence of a temporary pressure, and how inevitable the consequence is, that the mischief will not stop short where it began, for no sooner did the law prohibit the employment of young persons above twelve hours a day than attempts were made, and proved very successful, to restrict their employment two hours more, and no sooner did the law prohibit adult females from being suffered to work of their own

free will in mines, than the present measure declared adult females of all ages incapable of judging for themselves how long they should work in factories, absolutely forbidding them from labouring above a certain number of hours, as if it were an offence in an able-bodied woman of thirty or forty to work as long as she pleased, and ordering her, under severe penalties, only to earn a certain sum by the day in return for the labour of her own hands; to all which may be added the fact, that many persons have supported the present Bill, and some have propounded a still further extension of the scheme, upon the declared ground that after the Legislature had once begun the system of interference it was too late to question its propriety, and there was no possibility of stopping short where the former measure had left the question.

5thly, Because it is the grossest absurdity for the Sovereign to pretend that he knows better than his subjects how long they can work with safety to their health and comfort, to prescribe how much they shall gain by their labour, or generally to take upon himself the management of other people's concerns, an absurdity as great as the labourer would commit who should take upon himself the work of government, and dictate to the lawgiver in what manner his measures ought to be framed.

6thly, Because it is the grossest blindness to imagine that the happiness of children is better promoted by the necessarily general and careless superintendence of the State, as the common parent of all, than by the special and near watchfulness of the individual parents over their progeny, whom Providence has wisely intrusted to their care, creating feelings and instincts expressly adapted to the purpose, and of far greater force and far more constant operation than any mechanism which rulers can substitute, although the inevitable consequence of providing such substitutes must be to weaken the parental instincts, upon which, after all that the law can do, the lawgiver must in the end be forced to depend.

7thly, Because it is the grossest hypocrisy to pretend that the interests of morality can be promoted by interfering with the labour of the people, inasmuch as idleness is the root of all evil, inasmuch as grown-up women, if prevented from working when and how they please, are far more likely to employ their time

viciously, and in courses which no law can restrain, and inasmuch as no attempts are ever made or ever thought of to promote morality among the upper classes by any compulsory provisions whatever.

8thly, Because it is the grossest inconsistency to single out one branch of industry for the subject of experiments, how much tyranny over the capitalist and the labourer may be safely exercised, and to affect an especial care for the health, the comfort, and the morals of one class alone, among all the numerous bodies of workmen for whom the wants of the community find employment, it being quite notorious that the sufferings are equally lamentable which many other classes have unavoidably to endure, from toil and want, the caprice of employers, and the vicissitudes of the seasons, the hardships of their lot in life, and the effects of errors in legislation, the order of nature, and the faults of rulers.

9thly, Because as instances of this glaring inconsistency may be cited the facts stated in the Reports of the Poor Law Commissioners to the Commons' House of Parliament, touching the condition in different districts of husbandry labourers, beginning to work at a very tender age, exposed to extreme hardships in their daily toil, and running no small risk of having their morals impaired as well as their education neglected. Women and children do the work of which they are capable, and they begin their employment as early as five and six, and even in some instances four years of age. They have in some places to walk seven miles and more to their work, return home unpaid when the weather is unfavourable, and when paid receive extremely small sums. They go to work at seven in the morning, and continue till dark, in summer till nine o'clock. Unless they can finish a certain task of work they get no wages at all. There is no classification of ages or of characters, and the most profligate persons associate with those of tender years and comparatively innocent habits. Some of the reports disclose a frightful amount of immorality as the result of this admixture, and the returns of illegitimate pauper children for the whole Kingdom show that there is a far greater proportion of them in agricultural than in manufacturing districts, in the proportion of                    to one upon an average. Now all these sufferings, though exceedingly to be lamented, have never been deemed fit subjects of legislative

interference, nor have the severe sufferings, both in health and morals, of many manufacturing districts, ever been so regarded, all interference being confined to the single branch of cotton spinning, for this reason, among others, that were the compulsory enactments of the law extended over all the branches of industry, this country would cease to be the habitation either of wealthy capitalists or thriving labourers, but would be left to the advocates of the new system of meddling, and the inmates of the workhouse under their protection.

10thly, Because the most glaring evils in the condition of the poor, both parents and children, are daily under the eyes of the Legislature, and are so far from being checked that they are encouraged by its members, for their own convenience. Because these evils could only be eradicated by imposing restraints upon the natural liberty of the people, and interfering with the voluntary contracts made for their employment. The practice of women suckling the children of others devotes hundreds of thousands of children to diseases, arising from insufficient nutriment, procuring the death of many, and tending little to improve the maternal character. This practice has been blamed by all moralists, lamented by all persons of a sentimental cast, and objected to by political reasoners; but no attempt has ever been made to restrain it, lawgivers justly deeming it to lie beyond their proper province, and refusing to interfere with the labour of females capable of judging for themselves, although the interests and even the lives of helpless infants might seem to claim protection.

11thly, Because, however deplorable may be the devotion of young children to labour instead of instruction, and however desirable may be the liberation of females from all but domestic work, one of the surest proofs of advanced civilization, this can only be the slow and spontaneous growth of that progressive improvement in the condition, and with the condition in the habits, of the people; and it is manifest that when the lawgiver interposes with restraints upon capital and labour he is certain to retard that progress, to worsen the condition of the people, to prevent their habits from mending, and thus to produce or to exacerbate the very evils which he affects most to dread.

12thly, Because the grossest delusions have been, and in many instances too successfully, practised upon the working classes,

persuading them that measures like the present are for their benefit, and that the laws are more their friends than their employers. An absurd notion has thus been propagated, that by Act of Parliament men may receive wages without doing work ; and they have been taught to suppose that the question is not whether they shall be permitted to work as much as they please, and earn as much as they can, (which is the real matter in dispute,) but whether they shall for the same wages work a longer or a shorter time. And an equally wild fancy has been made to prevail, that the gain of the master is made at the workman's expense ; whereas every reflecting person must perceive that in exact proportion to the increase of capital employed in any trade is the amount of remuneration which can be afforded to the labour whereby that trade is driven.

13thly, Because the wants of society present a fair and an ample field in which the provident humanity of the Legislature as well as of eminent individuals may be exerted for the improvement of the people's condition upon rational principles, and without violating any right of the subject or any rule of sound policy, by amending the criminal law and the police system, so as to protect the young from the contamination of old offenders ; by rendering the punishment of all offences speedy and certain, instead of leaving it to mere hazard ; by unfettering industry from the shackles under which the relics of a barbarous age still leave it to pine ; and above all, by bestowing upon the poor the inestimable blessings of a sound education, providing the means of infant and adult training, and leaving the people to avail themselves voluntarily of the advantages thus wisely brought within their reach.

Henry Brougham, Lord Brougham and Vaux.

Thomas Spring Rice, Lord Monteagle of Brandon.

William Pleydell Bouverie, Earl of Radnor.

DCCXC.

JUNE 13, 1844.

Lord Monteagle moved 'that a Select Committee be appointed on the import duties, with a view of considering the effect produced by protecting duties on the foreign commerce, the home industry, the revenue, and the general prosperity of the British empire.' See Hansard, Third Series, vol. lxxv, p. 679. The motion was rejected by 184 to 75.

The following protest was inserted.

1st, Because it has been proved by experience on many previous occasions, that Parliamentary inquiries into the state of our foreign trade have been usefully instituted, and have led to highly beneficial consequences, without creating any inconvenient disturbance or embarrassment to those commercial interests which were brought under the attention of the Legislature.

2ndly, Because such an inquiry seems to be peculiarly requisite at the present time, when Parliament is called upon to review the effects of various changes already made in the system of customs duties, and to consider the propriety of farther alterations recommended for its adoption ; it being by such careful investigation of general principles, and by the evidence of practical men, that past experience may be rendered most conducive to future legislative improvement.

3rdly, Because, as it is the tendency of duties imposed neither for the purposes of revenue nor for countervailing justly the pressure of any burthens borne by a particular class, to make the taxation of the country partial, unequal, and therefore unjust, it is the duty of Parliament to examine whether any general or special advantages have been found to proceed from such exceptions and deviations from those more comprehensive principles by which commercial policy should be governed.

4thly, Because all protective duties, like all artificial bounties upon the diversion of capital from those branches of industry to which it would otherwise and more naturally be applied, lead to the application of capital in a manner less profitable to its owners, thereby diminishing the wealth of individuals and of the nation ; and therefore all such anomalies in commercial law require the most careful investigation before their continuance can be justified, even in reference to the ultimate interests of those whom it is intended to protect.

5thly, Because preliminary inquiry is well calculated to remove many unfounded alarms as well as false expectations, thus preparing the way safely, and with a more general assent of all classes, for the adoption of an improved system of import duties, consistent alike with the interests of British industry and with those of the public revenue.

6thly, Because the necessity of such inquiry is rendered still more apparent from the announcement that it is intended in the

course of the next year to take a comprehensive review of our financial and commercial laws, the proposed inquiry affording the best security against unwise or hastily considered legislation, like that by which we have seen revenue sacrificed without the attainment of a commensurate benefit by the consumer, the total receipt of duties lessened by the increase of their nominal amount, and novel and augmented colonial discriminations injudiciously sanctioned by the Legislature, thus raising most impolitic obstacles to the establishment of an improved system.

7thly, Because the system of protective duties not only diminishes the wealth of a nation, by imposing fetters and restraints on productive industry, but it also excites suspicions and jealousies in our relations with foreign powers, leading to unwise and irritating international prohibitions and retaliations dangerous to the peace of the world.

8thly, Because it peculiarly behoves the first commercial power of Europe to give an example to other nations of a sincere desire to discard the narrow and selfish restraints of restrictive policy, and to apply practically those more generous and comprehensive principles, sanctioned by the authority of the most eminent writers, the recommendation of the ablest statesmen, and the evidence of experience, by which it is proved that freedom of commerce best enables individuals as well as communities to apply capital and labour to such employments as are most useful to all; stimulating industry, rewarding ingenuity, and distributing labour most effectually and economically; and by thus creating the largest amount of production, and the widest extent and variety of interchange, binding in one common tie of interest the universal society of nations.

Thomas Spring Rice, Lord Monteagle of Brandon.

William Pleydell Bouverie, Earl of Radnor.

Archibald John Primrose, Lord Rosebery (Earl of Rosebery).

Gilbert Elliot Murray Kynynmound, Earl of Minto.

George Eden, Earl of Auckland.

Henry Fitzmaurice Petty, Marquis of Lansdowne.

Valentine Browne Lawless, Lord Cloncurry.

Charles Brownlow, Lord Lurgan.



## DCCXCI.

JULY 2, 1844.

A great rise had taken place in the price of sugar, and a Bill (7 and 8 Victoria, cap. 28) made certain alterations in the rate of duties levied on sugar. The debate is in Hansard, Third Series, vol. lxxvi, p. 164.

The following protest was inserted.

Because no grounds are shown that the Bill now before the House will add to the sugars admitted for home consumption in any proportion adequate to the wants of the people.

Because, even on the assumption that a distinction ought to be maintained between sugar the production of slave or free labour, it is obvious that by withdrawing for British consumption from the foreign market a portion of free-labour sugar an increased demand is thus produced for slave-grown sugar, the prices of which must consequently rise, and the production of which must consequently be stimulated.

Because the distinction thus attempted to be drawn is therefore rendered delusive and impracticable by the very enactment in which it is sought to be carried into effect.

Because the admission of the foreign sugar of China, Java, Manilla, and of the countries to which we are bound by commercial treaties, without any prohibition of the import of slave-grown sugar into such countries, imposes an unjust inequality on British India and the colonial possessions of the Crown, which are only permitted to import sugars for home consumption upon the express condition of the exclusion of all sugars of foreign growth.

Because no adequate provision is made to carry out the principle of the Bill, assuming that principle to be in itself defensible, and either to prevent the substitution of foreign slave-grown for foreign free-grown sugar, or to prevent the consumption of the former produce in foreign countries, and releasing for export an equal quantity of the latter, thus giving a stimulus to the slave trade and to slavery as full and as immediate as if a more direct trade were allowed.

Because to make British legislation dependent upon the state of law and morals in other independent States with whose internal conditions we are but imperfectly acquainted, and respecting which

no sufficient evidence has been laid before Parliament in support of the present Bill, is rash, dangerous, and unprecedented.

Because our sincerity in founding the distinctions drawn by this Bill between free and slave produce must be doubted whilst we continue, not only to admit cotton, coffee, tobacco, and other slave produce into the home market, but whilst we allow our merchants to become the great purchasers and carriers of slave-grown sugars, refining them on our own shores, exporting them to foreign States, transmitting them for colonial consumption, and, in certain states of prices, admitting them into the home market itself.

Thomas Spring Rice, Lord Monteagle of Brandon.

## DCCXCII.

JULY 14, 1844.

The Bank Charter Act, 7 and 8 Victoria, cap. 32, was the most considerable piece of legislation carried by the Government in this Session. For the criticism or defence of the measure see Tooke's History of Prices, and the pamphlets of Lord Overstone, Colonel Torrens, and Mr. Norman. The following protest was entered against the third reading.

1st, Because this Bill, by unnecessary interference with the affairs both of the Bank of England and of the country banks, takes from those who are most likely clearly to understand, and, if left uncontrolled, most able advantageously to direct, the management of their respective concerns, that freedom of action by which both the interests of the parties themselves, and in the end those of the public, are best promoted, and in so far relieves them from the responsibility to which they ought to be subjected.

2ndly, Because the provisions of this Bill are intended to supply the want of prudence and discretion in the persons directing these banking establishments, an object which can never be accomplished by general and legislative enactments; and because they thus hold out inducements, both to those persons themselves and to the public in general, to rely for security against the ill consequences of such want of prudence and discretion, not on their own care and caution, or the known character and means of the parties, but on the provisions of the Legislature, which is wholly unfit and inadequate to afford it.

3rdly, Because the commercial and financial difficulties against

the recurrence of which this Bill is meant to guard have, in my opinion, not been generally owing either to mismanagement on the part of the banks or to the want of such prudence and discretion ; and if the great financial crisis of 1825 and that of 1837 may both of them be in some measure traced to the assistance incautiously given to improvident speculations, it is not probable that the experience of these periods will have been so lost as not of itself to have prevented the repetition of similar conduct : if, however, such should be the case, I fear that this Bill, while it will entirely prevent the adoption of the measures which in 1825 and I believe in 1837 restored confidence, and applied a speedy remedy to the difficulties of the times, will raise a much less effectual barrier against the operations out of which these difficulties arose.

4thly, Because in all the cases of long-continued commercial and financial difficulties, these are, in my opinion, clearly to be traced to the exportation of bullion for the purchase of corn at the period of deficient harvests ; and because in the event of the recurrence of a similar demand for foreign supply the provisions of this Bill will not only not do anything to remedy the evil, but, by compelling a continued and constant contraction of the currency, tend very much to accelerate its progress and aggravate its effects.

5thly, Because in every case where in consequence of the diminution of bullion in the Bank of England an inconvenient contraction of the currency may, under the provisions of this Bill, take place, that inconvenience will be further augmented by the withdrawal of the deposits in the Bank which the evident interest of the depositors will occasion, and thus, cause and effect acting and reacting on each other, the entire exhaustion of the bullion of the Bank and the ruin of the establishment may be apprehended.

6thly, Because the amount of the currency required by the wants of the country varies from time to time, and is influenced by a multitude of circumstances quite out of the reach of human control or of possible foresight, and the attempt to regulate it by legislative provisions introduces a new, unnecessary, and unnatural element of uncertainty in the value of property, subjects it to the discretion (it may be to the caprice) of particular individuals, and tends most mischievously to disturb the relation of debtor and creditor.

7thly, Because I believe that in a great commercial and opulent country, whose pecuniary transactions are infinitely multifarious,

and especially in this country, where for many years the currency has been of a very varied character, any attempt to manage it by legislative enactments is as impossible as to regulate the amount which may be required ; that when the Legislature has provided a sure, certain, and unerring standard on which it shall be based, and has secured to the people the easy and immediate convertibility of any paper or token (which may be issued by private individuals or by any company) into the legal and recognized coin of the realm, they have done all that they ought to do or can safely and effectually effect, and that all the rest may be safely left to be regulated by the wants of the people, and by the interests and the judgments of the persons who minister to them.

William Pleydell Bouverie, Earl of Radnor.

### DCCXCIII.

APRIL 4, 1845.

The Income and Property Tax was continued for three years more. The following protest was inserted.

1st, Because I continue of the opinion respecting taxes on income detailed in a protest entered on the Journals on the 21st of June, 1842 ; and though the revival of activity in the manufacturing districts (owing, as I believe, to the cheapness of bread, aided by the remission of certain taxes) has caused a return of prosperity which was not then anticipated, I believe that this tax must have done much to retard and repress it.

2ndly, Because, if scarcity shall again enhance the price of bread and occasion distress during the continuance of this tax, it will greatly aggravate all the evils, and increase the financial difficulties which will then arise.

3rdly, Because in that case the financial circumstances of the country at the end of three years will probably be such as to render the further continuance of this tax indispensably necessary ; and in the other alternative, and at all events, it may be found convenient to the minister of the day, and may be justified by the same arguments as have been now used.

4thly, Because I see no ground to hope that before that period Parliament will be prepared to repeal the duties on the importation

of corn, which might render its renewal unnecessary, or so to modify it as to make it a tax, not on income generally, but on incomes arising from fixed and realized property only, in which case I should think it altogether unobjectionable.

William Pleydell Bouverie, Earl of Radnor.

George William Frederic Villiers, Earl of Clarendon.

John Campbell, Lord Campbell.

## DCCXCIV—DCCXCVI.

MAY 30, 1845.

Lord Radnor introduced a Bill for the purpose of defining and regulating the powers exercised by the Secretary of State in opening letters. Mr. Mazzini had discovered that Sir James Graham had tampered with his letters, and in the last Session of Parliament, Committees of both Houses had been appointed to enquire into and report on the practice. The debate will be found in Hansard, Third Series, vol. lxxx, p. 1033. The Bill was rejected by 55 to 9.

The following protests were inserted.

1st, Because it is doubtful whether by law any power exists of detaining and opening letters passing through the post office.

2ndly, Because this power as now exercised by the Secretary of State in England and in Ireland by the Lord Lieutenant is abhorrent from the feelings of the people, and is immoral in itself, being a violation of confidence, and requiring for its useful exercise secrecy, which in practice has been obtained by the forgery of seals and the falsification of stamps.

3rdly, Because, being exercised secretly, it cannot be questioned, and the person who exercises it not being known, cannot be proceeded against, or made responsible.

4thly, Because, if necessary (as is alleged) for the safety of the realm, or for purposes of police, it ought to be clearly recognized by law, regulated and well defined, and the provisions of this Bill were intended for that purpose.

5thly, Because the clauses and provisions against which in the debate strong objections were urged might have been altered in the Committee, if the Bill had been allowed to proceed, and were not legitimate grounds for objecting to the principle or refusing the second reading.

William Pleydell Bouverie, Earl of Radnor.

Thomas Denman, Lord Denman.

1st, Because I think the law with respect to the detaining and opening letters at the post office extremely doubtful; and that in a matter of so much delicacy and importance, it ought to be peculiarly clear and well defined; and because if the law really is, what it was contended in the debate to be, I think it ought to undergo immediate amendment.

2ndly, Because, despairing at present of the entire abolition of the practice, I highly approve of the principle of the Bill; which was meant to restrain it to cases in which it might possibly do some good, and to limit its operation within reasonable bounds.

3rdly, Because, if the clauses of the Bill were liable to the objections urged in the debate, those clauses might have been corrected and the objections obviated in the Committee.

4thly, Because two most desirable objects would have been obtained by this Bill:

1st, The suppression of the immoral and fraudulent practices naturally arising out of the power itself; and,

2ndly, The limiting the exercise of the power claimed to matters of internal government; and the preventing of that interference with the concerns of foreigners, relying on English hospitality, which I deem derogatory to the character of the country, and which, as late events have proved, is likely to be prompted by false information, and may, I apprehend, endanger the general peace.

Thomas Denman, Lord Denman.

William Pleydell Bouverie, Earl of Radnor.

John Campbell, Lord Campbell.

George William Fox Kinnaird, Lord Kinnaird and Rossie.

1st, Because we think that the law, which is a matter directly affecting the rights, interests, and comfort of every class of the community, ought to be perfectly clear and distinct, is in the matter to which this Bill applies at present obscure and doubtful, affording neither a guarantee to the subject against inquisitorial tyranny, and the arbitrary caprice of a minister, or certain protection to a servant of the Crown who may be led by unsound precedents to exceed his lawful authority.

2ndly, Because it does not appear from either of the reports of the secret Committees of this and the other House of Parliament,

or from any other authentic source of information (neither has it been alleged in debate), that any danger to the State from foreign foes or from domestic treason has ever been averted or discovered by the stoppage or opening of letters in the Post Office; and we therefore gather from the experience of nearly two centuries that no benefit arises from a practice which is so unconstitutional, odious, and demoralizing that nothing but the highest interests of the State, involving the peace of the country or the security of the Sovereign, could justify or palliate its continuance without some such limit and restraint as this Bill is calculated to impose.

3rdly, Because even if we could believe that the opening of letters in the Post Office may have been at any past time useful to the Government and beneficial to the community at large, we should nevertheless be convinced that it cannot in future be attended by advantages at all commensurate with the evil of maintaining a system disgraceful to our Government, repugnant to the feelings of the British people, and contrary to every principle of popular or individual liberty.

Ulick John de Burgh, Lord **Somerhill** (Marquis of Clanricarde).  
George William Fox Kinnaird, Lord **Kinnaird** and **Rossie**.  
Thomas Denman, Lord **Denman**.  
William Pleydell Bouverie, Earl of **Radnor**.

## DCCXCVII.

JUNE 4, 1845.

The Act 8 and 9 Victoria, cap. 25, remodelled the College of Maynooth, increased its annual grant, and provided for its inspection and government. The Bill encountered warm opposition in both Houses, and was the subject of very many hostile petitions. The Bill was carried in the Commons on the 21st of May after three nights' debate, by 317 to 184, the tellers of the minority being Inglis and Bankes. See Hansard, Third Series, vol. lxxx, p. 521. The following protest was inserted after the second reading in the Lords.

1st, Because I have always viewed the establishment of the Roman Catholic College of Maynooth as a measure bad in principle, and not productive of any of those advantages which (as an experiment and a mere measure of political expediency) might possibly have on those grounds justified its original adoption.

2ndly, Because I have always entertained the strongest convic-

tion that the annual grant to the College of Maynooth was a measure to which, as a Protestant, I could not assent; as educating, for the spiritual instruction of the Roman Catholic population of Ireland, an inferior class of persons, taken in most instances from the lower orders of the people; and therefore not likely to use, for the general advantage and benefit of the country, the immense power which they must possess, as the spiritual guides of a naturally intelligent, sensitive, and easily excited people.

3rdly, Because my sentiments as to the character of the education adopted in the College of Maynooth have been fully corroborated by the evidence taken before the Commissioners of Irish education, in their eighth report; and the admissions of the professors of that institution, prove to my complete satisfaction, that the authorized class books of Maynooth (which every student is obliged to purchase), and the standards to which they are referred, contain doctrines, the inculcation of which upon the youth, who are to be the spiritual guides and directors of the great body of the Irish people, must be fraught with the greatest danger to the peace and well-being of the United Empire.

4thly, Because objecting so strongly to the annual grant to the College of Maynooth, those objections are infinitely increased, when it is proposed to give to that institution a permanent endowment, unaccompanied by any check or control, on the part of the Legislature.

5thly, Because it is my firm conviction that the effect of the present measure for the permanent endowment of Maynooth will be to increase the number of the Roman Catholic priesthood without improving the quality of that body.

6thly, Because considering this measure to be bad in itself and dangerous in its consequences, I cannot but view it as the precursor of other measures, which in the march of events it must carry with it, involving (perhaps at no distant period) the destruction of our Protestant Established Church.

Henry Maxwell, Lord Farnham.  
George Kenyon, Lord Kenyon.



## DCCXCVIII—DCCCII.

JUNE 16, 1845.

The following protests were inserted on the occasion of the third reading of the Maynooth College Bill.

Because I consider this measure to be entirely inconsistent with the Protestant constitution of our government, to maintain and defend which the House of Brunswick was called to the Throne of these realms.

Because I cannot but think that this Bill, taken in conjunction with the measures recommended and pursued by her Majesty's ministers, is calculated to put in hazard the existence of the Protestant Church in Ireland, though at the time of the union of that country with Great Britain it was distinctly undertaken that that Church should be the United Church of England and Ireland, and be maintained as such.

Because I fear that the security of her Majesty's throne cannot but be greatly endangered, and the hearts of her Majesty's loyal Protestant subjects throughout the Empire deeply shocked, by such measures, as indeed the unprecedented number of petitions presented to both Houses of Parliament, and to her Majesty, abundantly testify.

Because I consider that the Protestant Church and constitution of England is the highest of all blessings vouchsafed to our country by God's special and peculiar mercy, and that the nation will be guilty of a great crime in abandoning the protection of so sacred a trust; and that as we have been blessed beyond all the nations of the world, during the period of our possessing it, so we may well fear that if we prove unworthy we may receive such severe punishment as a nation as such abandonment of our highest national duty deserves.

George Kenyon, Lord Kenyon.

George William Finch Hatton, Earl of Winchilsea and Nottingham.

Henry Maxwell, Lord Farnham.

1st, Because it is a national endowment of the Church of Rome in this country, and as such is in direct variance with the Protestant principles of our constitution.

2ndly, Because the passing of such a measure will greatly weaken if not totally destroy the right and title by which the House of Brunswick holds the British Throne.

3rdly, Because the national endowment of the said College of Maynooth for the education and instruction of five hundred priests, attached to a Church, which we as Protestants hold inculcates doctrines both idolatrous and superstitious, is a fearful departure from the duty which we owe to Almighty God as Christian Legislators, and will lay our country justly open to visitations of the Divine displeasure.

George William Finch Hatton, Earl of Winchilsea and Nottingham.

Charles William Bury, Earl of Charleville.

Robert Jocelyn, Lord Clanbrassil (Earl of Roden).

George Kenyon, Lord Kenyon.

1st, Because I hold it to be contradictory to the first principles of the Reformation, to provide for the establishment of an order of men, to be educated for the express purpose of resisting and defeating that Reformation; men whose office and main duty it will be to disseminate and to perpetuate those very corruptions of the Christian faith which the Church of England has solemnly abjured, and some of which the whole Legislature of England has declared to be superstitious and idolatrous.

2ndly, Because the most unbounded toleration of religious error does not require us to provide for the maintenance and the growth of that error, but rather imposes upon us a strong obligation to prevent, by all just and peaceful means, its increase, and to discourage its continuance.

3rdly, Because this measure has a tendency to raise in the public mind a belief that religious truth is a matter of indifference to the State, and by consequence to subvert that principle of succession to the throne on which the title of the present dynasty is founded, and which forms an essential and integral part of the constitution of this Kingdom.

Edward Copleston, Bishop of Llandaff.

Charles Richard Sumner, Bishop of Winchester.

William Thomas le Poer Trench, Earl of Clancarty.

John Bird Sumner, Bishop of Chester.

Robert Daly, Bishop of Cashel, &c.

George William Finch Hatton, Earl of Winchilsea and Nottingham.

George Cadogan, Earl Cadogan.

The Bishop of London's name is inserted after that of Lord Clancarty, but a pen is drawn through it.

1st, Because in taking and subscribing the oath of supremacy I have declared 'that no foreign prince, person, prelate, state, or potentate hath, or ought to have, any power, pre-eminence, jurisdiction, or authority, ecclesiastical or spiritual, within this realm;' and this measure substantially affirms that such jurisdiction is legally vested and ought to be upheld in the See of Rome, over her Majesty's Roman Catholic subjects in Ireland.

2ndly, Because my duty to my Sovereign forbids my advising her to put her hand to an Act for the encouragement of a form of worship, of which she has solemnly, in the presence of God, testified her belief that it is superstitious and idolatrous.

William Thomas le Poer Trench, Earl of Clancarty.

George Kenyon, Lord Kenyon.

1st, Because there exists the same contrariety between the doctrines of the United Church of England and Ireland, and the doctrines of the Church of Rome, now, as at the time of the Reformation.

2ndly, Because as the Sovereign of these realms is required to make a declaration that some of the tenets of the Church of Rome are superstitious and idolatrous, and therefore offensive to God and dangerous to man; it is neither consistent with faithfulness to God nor true charity to man to endow a college to teach those doctrines.

Robert Daly, Bishop of Cashel, &c.

### DCCCIII.

JUNE 23, 1845.

The principle of regulating the issues of Banks introduced into the English Act of 1844, was extended in 1845 to Ireland (8 and 9 Victoria, cap. 37), and Scotland, cap. 38. The Bill was resisted both on the second and third reading. No division was however taken on the second reading, Lord Radnor inserting the following protest.

1st, Because this Bill, proceeding on the assumption and stating in the preamble that it is expedient to regulate the issue of bank notes in Scotland, alleges no ground as reason for that expediency, neither that the issue has heretofore been excessive, nor that it has been made on inadequate security, nor that it has been attended with loss or inconvenience to the people of Scotland, nor that the people of Scotland complain of it, or desire such regulation.

2ndly, Because I hold it inexpedient to regulate such issue, inasmuch as—

1. It is an unnecessary legislative interference with private concerns, and such interference is contrary to all sound principle of legislation.
2. It will in this case be productive of inconvenience, both to the bankers whose concerns it is intended to regulate, and to the people in general; and,
3. It is quite uncalled for, and altogether deprecated by the people of Scotland.

3rdly, Because the Act of last Session (7 and 8 Victoria, cap. 32) having given a monopoly of all the banking business of the United Kingdom to the then existing banking establishments, this Bill confirms that monopoly, as far as Scotland is concerned, and thus unjustly places the people of that country at the mercy of a combination of bankers, the necessary consequence of which must be that the bankers will be freed from one strong incentive to pay due attention to the concerns of their customers, and that their customers will be deprived of that security for the faithful discharge of their bankers' duties.

4thly, Because the Bill proceeds on the supposition that an increase in the number of banks leads to too large an issue of bank notes; whereas I conceive (and in that opinion am borne out by the testimony of eminent Scotch bankers) that the amount of bank notes in circulation is regulated by the wants of the community, and when convertible into coin at the option of the holder can never be in excess; and that the increase of banks located in different places, and the great extension of branches in remote agricultural districts, by multiplying the opportunities and extending the facilities of making deposits, tends to diminish the amount of notes in circulation.

5thly, Because, though it has happened accordingly that the amount of notes in circulation in Scotland has, notwithstanding the increase of the population, of commercial transactions, and of general wealth, been considerably diminished in the last twenty years, it is not to be expected but that in the progress of events a larger supply may at some time be wanted, and such an increased supply is absolutely prohibited by this Bill, except on terms very disadvantageous to the issuers.

6thly, Because, bankers being forbidden by this Bill to enlarge their issues of notes beyond the average of the year ending the 1st of May, 1845, except to the extent of the coin held in their coffers, it will happen that in the event of any misconduct on the part of any bank, or dissatisfaction on the part of its customers, if their customers resort to another bank which they consider either more safe or more accommodating, that bank can transact their business only by increasing its issues against gold, whereby banking accommodation of every description in Scotland will be obstructed and rendered more expensive.

7thly, Because I apprehend that the provisions of this Bill enabling a banker to increase the issue of his notes permanently beyond the average of the year ending the 1st of May, 1845, to the extent of coin retained in his hands, are illusory, and will be useless, for it is difficult to understand with what view a banker should issue any notes under such restrictions, inasmuch as he would entail on himself trouble and expense, and could derive no profit from the transaction.

8thly, Because the immediate effect of this Bill is to hamper the business of banking, and its unavoidable effect to concentrate in fewer hands all the banking affairs of Scotland, and constantly to bring them nearer and nearer within the compass of a close monopoly.

9thly, Because, if the banking business of Scotland is confined to fewer hands, the public will be deprived of the benefit of free competition, which is constantly stimulating the ingenuity of rival bankers to devise new expedients for facilitating banking operations, in the hope of retaining or extending their business to the great advantage of the public.

10thly, Because, in the case of banking, as in every other business, monopoly is injurious both to the public and in the

long run to the persons to whom it is conceded; and it is in evidence before a committee of the House of Commons that the great competition existing amongst the banking establishments of Scotland, while it has restrained within moderate bounds the profits of the banking business, has, by raising the rate of interest given on deposits, and lowering the rate of interest charged on loans, greatly benefited the community.

11thly, Because the substitution of bank notes for coin is one of the most ingenious and useful improvements of modern times, and, provided the notes are at all times convertible into coin at the option of the holder, is attended with no risk, affords great convenience for commercial transactions, and is productive both of saving to the public and of advantage to individuals; and to check it, which is the object of this Bill, is to take a retrograde step in the path of civilization.

12thly, Because if there is, as some apprehend, anything dangerous or unsound in the banking arrangements of Scotland, it proceeds, not from the amount of paper currency, which this Bill is intended to limit and control, but from the extent of credit, which it affects only in a circuitous and mischievous manner.

13thly, Because the banking system of Scotland, hitherto wholly free and uncontrolled by any legislative regulation, has worked most beneficially for the people of that country, and has given them entire satisfaction; and I therefore can see no call of necessity, expediency, or prudence for the present attempt to regulate it by law.

William Pleydell Bouverie, Earl of Radnor.

#### DCCCIV.

JUNE 24, 1845.

On the 9th of June Lord Stanley moved the first reading of a Government Bill, the object of which was to provide compensation in certain cases to Irish tenants, who might be dispossessed of their holdings, for such improvements as they had made during their tenancy. The speech with which the Bill was introduced is in Hansard, Third Series, vol. lxxxi, p. 211. The compensation was limited to draining, building, and fencing, *i. e.* for destroying fences. The Act was to be carried out by a commissioner, named a commissioner of improvements. The

second reading was taken on the 24th of June, see Hansard, ib. p. 1116, and was carried by 48 to 34. It was then referred to a select committee. The following protest was entered.

1st, Because whilst we are most solicitous to support any measure which produces or which has a tendency to produce an improvement in the condition of the occupying tenantry of Ireland, we are unable to find in the provisions of the present Bill any enactments which will have that beneficial effect.

2ndly, Because we consider the improvement of agriculture and the extension of a demand for labour in Ireland to depend very materially upon the mutual good understanding and co-operation between landlord and tenant, and the contribution of the capital of the one class in aid of the industry of the other, which the provisions of this Bill seem calculated to check and limit rather than to increase and to encourage.

3rdly, Because the intervention of a Government officer, called in, not as a guide and adviser, by two parties anxious to combine in the execution of a definite system of well-considered improvement, but interposing at the request of one party only, and possibly against the consent of the other, appears to us manifestly unjust in principle, and likely to lead to dissensions and jealousies where it is most important that goodwill and cordiality should permanently exist.

4thly, Because we consider the compulsory introduction of new and varied obligations between parties who have already entered into contracts, and this without any saving of those existing contracts, gives to this Bill an *ex post facto* operation, contrary to justice and to the first principles on which sound legislation should proceed, principles which have hitherto been regarded by Parliament as sacred and inviolable.

5thly, Because the introduction of a measure like the present seems peculiarly rash, dangerous, and inopportune, at a time when it appears from the report of the commissioners, that, 'in spite of many embarrassing and counteracting circumstances, in almost every part of Ireland unequivocal symptoms of improvement continually present themselves to the view, and when there exists a very general and increasing spirit and desire for the promotion of improvements from which the most beneficial results may fairly be expected.

6thly, Because a facility of erecting new buildings on small farms, without taking any adequate security for the future and permanent appropriation of those buildings to those uses only which may be conducive to the real interests of the tenant as well as of the landlord, and to the improvement and good cultivation of the land, can hardly fail to promote the increase of a pauper population, lowering the rate of wages, augmenting the price of food, adding ultimately to the competition for land, and thus incalculably aggravating many of the most serious evils incident to the condition of the Irish peasantry.

7thly, Because a provision to encourage the levelling of existing fences is not only inapplicable to the greater part of Ireland, but, as being unaccompanied by any clauses to provide for the erection of new fences of a permanent or improved character, or indeed of any fences at all, seems to us most irrational and absurd.

8thly, Because, even if it is assumed that the principle of the Bill is as wise and just as, for the reasons stated, it appears to us indefensible and impolitic, it is manifest that the machinery provided in this Bill, by the establishment of a single officer of the Government in Dublin, acting through assistant commissioners named by himself, is wholly inadequate for the performance of duties extending over the whole surface of a great country.

9thly, Because the enactment of an ill-considered measure like the present may raise serious obstacles in the way of a wiser system of legislative interference to which we should feel disposed to give our most favourable consideration,—a system which, by affording guidance and instruction where skill and science are required,—by facilitating the application of capital where capital is needed, and is most likely to be profitably applied,—by encouraging co-operation, not only between landlord and tenant but between parties interested in adjacent estates,—by securing to the tenant the strict and accurate performance of all contracts entered into with him, and a full return for all improvements effected by him with his landlord's approval,—by securing to the landlord a maintenance of all improvements to which he may be called on to contribute,—shall increase the amount of agricultural produce,—shall augment the national wealth,—shall stimulate and render more permanent the demand for labour,—and thus, without the violation of any principle, facilitate the discharge of the duties



whilst maintaining the rights of property, and shall thus improve the condition of all classes of her Majesty's Irish subjects.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

Francis William Caulfield, Lord **Charlemont** (Earl of Charlemont), excepting the seventh reason.

Archibald Acheson, Earl of **Gosford**.

Cornelius O'Callaghan, Viscount **Lismore**.

Ulick John De Burgh, Lord **Somerhill** (Marquis of Clanricarde).

John Campbell, Lord **Campbell**.

George William Fox Kinnaird, Lord **Kinnaird and Rossie**.

John Chambre Brabazon, Lord **Chaworth** (Earl of Meath).

Robert Shapland Carew, Lord **Carew**.

Robert Jocelyn, Lord **Clanbrassil** (Earl of Roden), excepting seventh reason.

Edward Churchill, Lord **Crofton**, except seventh clause.

George Charles Bingham, Earl of **Lucan**, excepting the seventh reason.

Charles William Bury, Earl **Charleville**.

John Edward Cornwallis Rous, Earl of **Stradbroke**.

Henry Spencer Chichester, Lord **Templemore**, excepting seventh reason.

John William Montagu, Earl of **Sandwich**.

William Parsons, Earl of **Rosse**, excepting seventh reason.

Robert Edward King, Viscount **Lorton**, except the seventh.

George James Perceval, Lord **Lovel and Holland** (Earl of Egmont).

Robert Henry King, Lord **Kingston** (Earl of Kingston).

Charles William Stewart Vane, Earl **Vane** (Marquis of Londonderry).

## DCCCV, DCCCVI.

JUNE 30, 1845.

The following protests were entered against the third reading of the Scotch Banks Act, which was carried by 47 to 15.

1st, Because any interference with the banking system of Scotland is totally uncalled for, as proved before the committees, in which facts have been fully corroborated by subsequent experience.

2ndly, Because the Bill will, owing to the way the average is taken, tend to limit the present circulation, and thereby cause great injury to the landed property in Scotland, as well as to the commercial interest. That taking the average for one year is no criterion of what may be the wants of the country a few years hence.

3rdly, Because it appears that the introduction of this Bill is only the first step towards the object of those who wish to abolish the small notes in Scotland, with the view of assimilating the system of banking to England, having only one bank of issue.

George William Fox Kinnaird, Lord **Kinnaird** and **Rossie**.  
William Pleydell Bouverie, Earl of **Radnor**, for the first, latter part of the second, and for the third reasons.

1st, Because I can see no possible benefit likely to result from this Bill; and none has been stated in debate, except in the event of such an emergency as has never yet occurred, which in my opinion it is rather calculated to occasion, and which it supplies no new means of meeting.

2ndly, Because it will at once check and ultimately put an end to that competition which has heretofore existed amongst the banks of Scotland, and which has rendered banking remarkable for cheapness, efficiency, and safety, and highly beneficial to all the interests in that country.

3rdly, Because, though I consider the evils hence resulting, quite certain, they will not be so palpable as to invite or suggest a repeal of this law; they will not exhibit themselves by any calamity, or produce any immediate distress, but they will silently prevent that advance in prosperity which might otherwise have been attained. If similar provisions had been enacted twenty years ago it is evident that Scotland would not have enjoyed the advantages which are universally admitted to have resulted from its banking system; but no one would have known that, but for those enactments, it would have been more prosperous. In like manner hereafter, as no one will be able to say what would have been the state of the country if this Bill had not passed, so no one will be able to trace the amount of evil, which it will have produced, or of good, which it will have prevented.

William Pleydell Bouverie, Earl of **Radnor**.  
Archibald John Primrose, Lord **Rosebery** (Earl of Rosebery),  
for the first reason.

## DCCCXVII.

JULY 1, 1845.

On the 7th of February, 1845, one William Lloyd, an Irishman, wilfully broke the Portland vase in the British Museum. He was brought before a magistrate and fined £3 for breaking the glass case, no provision having been made by law for the punishment of such mischievous offences. The vase was afterwards repaired. Early in the Session the Government introduced a Bill, which passed the Commons without debate, inflicting two years' imprisonment, hard labour, and whipping on such offenders. In the Lords the imprisonment was shortened to six months. The Act is 8 and 9 Victoria, cap. 44.

The following protest was entered.

1st, Because legislation upon the happening of any accidental event of exceedingly rare occurrence, which scarce ever had been known before, and may very likely not happen again, is at all times much to be avoided; and this Bill takes its rise from the concurrence of two such improbable accidents, a person apparently of unsound mind breaking the Portland vase, and the noble owner of it being averse to institute any action for the trespass. Had he done so, such damages must have been recovered as would have ensured a period of long imprisonment, and this Bill never would have been heard of.

2ndly, Because, although it may sometimes be advisable, against the aforesaid general principle, to take the occasion of some one occurrence for supplying a defect in the law, it is by no means clear that there was such a defect as this Bill assumes to have existed. The distinction which our law has ever taken between crimes and trespasses appears to be perfectly well grounded; the one is the proper subject of punishment; the other of compensation.

3rdly, Because the whole structure of this Bill plainly indicates its origin in a particular isolated event, and shows, what always happens in such legislation, and is one of the principal reasons against it, that the lawgiver's attention being confined to one circumstance, all other considerations are neglected. In the present instance there is no measure or proportion kept in the punishment inflicted with the punishment inflicted for other offences, and a single act being selected, the one that gave rise to the Bill, a class of crimes is constituted to embrace this one case, and all other cases are overlooked. The Bill is indeed not quite so

violent an outrage on all humanity and all principle as it was when sent up from the Commons. Instead of two years' imprisonment with hard labour and three whippings, the limit now is six months and hard labour, or six months and three whippings; but this reduced penalty is far beyond the punishment often inflicted for much more serious offences. A woman's character is at least as valuable as the fold of the drapery of her stucco cast, and the damaging of the former is a somewhat graver offence than the damaging of the latter; yet the slanderer is only liable to an action, nor even to that unless he imputes an indictable offence, and the libeller himself, if prosecuted, would assuredly never be condemned to six months of prison, nor could he be sentenced to hard labour. Again, all other property, even the most valuable, is left to the protection of the old law. The owner of the magnificent and truly noble collection of plants at Chatsworth, one of the great ornaments of this country, whether for its scientific value or its extraordinary beauty, is left to bring his action and recover damages from any one who may destroy a flower or a plant, to import or to rear which has cost large sums, and been the labour of an ingenious botanist's life; while the idle boy that chips off the little finger of a stucco cast worth a groat is liable to be punished more severely than if he had committed a manslaughter, or other felony without aggravating circumstances.

4thly, Because this is the first instance of extending beyond a very small fine for malicious mischief those penalties often given in local acts for constructing bridges, turnpikes, and other such works, and they have always been granted upon the ground, not applicable to the subject of the present Bill, that the malice to be guarded against might originate in the desire of destroying the works to injure the concern to which they belonged, and might be traced to some conspiracy of persons having conflicting interests, while in all later acts the injury of the road used for steam conveyance was known and felt to be an offence exposing human life to the utmost peril. Such consideration can have no place in the present case; and nothing can be urged in favour of this Bill which would not go to justify a similar extension of the criminal law to every species of trespass upon property, whether public or private.

Henry Brougham, Lord Brougham and Vaux.

## DCCCVIII.

JULY 10, 1845.

Thomas Baker, formerly a police superintendent in the Metropolitan Force, had given evidence before the Committee of the House of Lords on the Game Laws. Mr. John Harlow, named in this evidence, conceived himself aggrieved by the statements made, and gave notice of action. Thereupon Baker petitioned the House for protection, on the ground that his evidence was privileged. The Chancellor thereupon moved that the matter be referred to a Select Committee; Lord Campbell, on the other hand, that the plaintiff and his attorney be summoned to the Bar. The Chancellor's proposal was carried by 33 to 22. Ultimately Harlow and his attorney, on being taken into custody, expressed their regret for the breach of privilege which they had committed.

The following protest was entered.

1st, Because a reference to precedent cannot be necessary for dealing with a case which presents a manifest violation of our privileges. Precedent of such an audacious disregard of the authority of this House will (as has been admitted in debate) probably not be found, and the inference which naturally arises from a search for precedents is, that we feel some doubt or difficulty in maintaining that authority without the precedent of a similar case.

2ndly, Because the arguments which have been adduced in debate against the amendment which has been rejected tend to a denial of the peculiar powers, authority, and privileges which I believe the House of Lords to possess, which are not necessarily connected with its judicial functions, and which are superior to those of any other court of law.

3rdly, Because this House ought to show no hesitation in protecting its witnesses. Inquiries instituted to collect information for the purposes of legislation differ widely from the examination of witnesses in the administration of justice; and if individuals who have been summoned before this House and its committees to assist such inquiries be not protected from annoyance and expense, in consequence of statements honestly made, and of facts conscientiously related in evidence, it is to be apprehended that there may be an indisposition to afford information, and a caution in referring to facts which may be productive of inconvenience and difficulties in prosecuting such inquiries.

Ulick John De Burgh, Lord Somerhill (Marquis of Clanricarde).  
Thomas Spring Rice, Lord Monteagle of Brandon.  
John Campbell, Lord Campbell.

## DCCCIX.

JULY 14, 1845.

John Harlow and Peter Taite Harbin, the latter a solicitor, were examined touching their proceedings against Baker, and both were committed to the custody of the Deputy Usher of the Black Rod until further orders. The debate is to be found in Hansard, Third Series, vol. lxxxii, p. 431. Lord Brougham subsequently printed his speech.

The following protest was entered.

1st, Because this House is now for the first time interfering to stop by force an action brought against a party for a wrong done to a fellow-subject in slanderous words alleged to have been falsely spoken, and is thus interposing its power, under the name of privilege, between the subject and his strict legal right, sought to be made good in a court of law by the course which the law has prescribed.

2ndly, Because, whatever right the House may be supposed to derive from precedent, that is, from former instances in which it has exercised similar powers, there can be no doubt that in former times both Houses of Parliament were wont to do many acts under the name of asserting their privileges, acts which in the present day and for a long time past both Houses of Parliament have wholly abstained from doing, and which would now be considered by all mankind to be gross and wanton violations of all justice.

3rdly, Because, though the right, however founded or however proved, to do such acts as these, or even such acts as the present, of a far less objectionable kind, were admitted, yet it is always a question of expediency and discretion whether or not this power, even if it be possessed by right, shall in any given case be exercised, and it ever behoves both Houses of Parliament to be most cautious and abstinent in the use of powers like these, which are assumed by them over parties charged with offending against themselves, and are used by them in their own case without the intervention of any impartial and judicial authority.

4thly, Because it is in a peculiar manner the duty of both Houses to abstain from such acts, when they reflect that there is no code of privilege promulgated whereby the people may know against what law they offend,—that the law is in each case declared possibly made for the first time, after the alleged breach

of it has been committed, and made in the heat of the strife occasioned by the alleged offence,—that the members of the two Houses always differ among themselves both as to the law and its application,—and that they who promulgate it are at once the lawgivers, parties, prosecutors, jurors, judges, and executioners,—while in this instance alone no power of extending mercy to the offender exists in the State.

5thly, Because it behoves this House in a more peculiar manner to avoid placing itself in so strange and anomalous a position, seeing that as it is a supreme court of justice in the last resort in all cases, criminal and civil, so it ought to be most anxious ever to set the example of strictly just, regular, legal procedure, should most carefully shun all violations of law and justice, and should especially be slow to interfere with pending actions, which may in their result come before itself as a high court of appeal.

6thly, Because the cases in which it is expedient and justifiable, from absolute necessity, to interfere with the rights of individuals and the ordinary course of the law, are of a description wholly different from the present, being actual obstructions offered to the proceedings of the Houses, and which must be removed without any delay, else the arm of Parliament would be paralysed, and because no objection could ever be raised to such an exercise of power, and of rightful power, either by the two Houses or by any other tribunal. But constructive contempts like the present are of a wholly different description, and no harm whatever can arise from allowing them to be dealt with by the course of the law as administered in the regular courts of justice,—those courts to which the Sovereign as well as the meanest of his subjects must always resort for the establishment of rights and punishment of wrongs ;—those courts to which the Houses of Parliament may most safely resort as the abodes of strict justice,—courts pure from all taint of corruption, free from all bias of influence, uncontrolled by the threats either of regal authority or aristocratic insolence, or popular violence, and to which neither faction nor fear can ever gain access.

7thly, Because the argument, that witnesses must be protected from vexatious and costly suits, is wholly inapplicable to the case, inasmuch as no one pretends to doubt that they may be prosecuted at the instance either of the Crown or any individual, whether a

member of the House or not, and if so prosecuted never could recover one farthing of their costs, though ever so honourably acquitted.

8thly, Because no punishment which can be inflicted, either by a prosecution or by the House, upon a witness, for the most wanton and the falsest slander of an individual, can afford any reparation whatever to the party thus injured, as the House has not by law the power, if petitioned, to give any such compensation.

9thly, Because the protection of witnesses before the Houses of Parliament never can be regarded as more essential to the public weal than the protection of witnesses before the courts of civil and criminal judicature ; yet no one pretends to doubt that an action may be brought against any person for slanderous words falsely spoken by him in giving his evidence before those courts ; and though no damages could be recovered if the words were spoken in answer to a question put in the cause, yet it is quite certain that the action must take its course, and that nothing could be done by the court to stop it, so that the witness must be exposed to exactly the same vexation and expense which are alleged to form the only ground for interfering to stop the action in the present case.

10thly, Because the order to prevent a defendant from pleading, or the commitment of the plaintiff for a constructive contempt, never can really stop the action, which may proceed through all its stages, whatever be done to the parties, unless indeed the greater and unheard of violence were committed of arresting the judges and their officers, and destroying the record, and tearing the proceedings from the file.

11thly, Because all the arguments drawn from alleged analogies in a court of equity are wholly wide of the case, inasmuch as the granting an injunction to stay actions at law, or to prevent receivers and other officers or quasi officers of the court being sued for acts done under its authority, are not granted discretionally, but are matter of strict right, and inasmuch as such injunctions only prevent the party against whom they issue from obtaining his remedy in one form, reserving it to him in another, nay, securing it to him in the court which stays the action ; whereas the present proceeding deprives the party of all remedy whatever, the House having no power or authority to grant him redress.

12thly, Because it is a great aggravation of the mischief so



justly complained of, that for the last nine years the other House of Parliament has sold all the papers printed by its authority, allowing a discount to encourage the trade in those publications, and that though this House has not as yet engaged in this branch of business, yet it communicates its prints to the other, which sells them with its own.

13thly, Because the inexpediency, injustice, and cruelty of exercising the alleged privilege of the House is strongly illustrated by the peculiar circumstances of the present case. A complaint is made by a peer that an action has been brought against a witness. The defendant is publicly described as a most respectable person, who had served well in the Peninsula; to the plaintiff is applied the most severe and even coarse expression; while in no court that tried the case could such praise or censure of the character borne by the parties ever be heard for an instant, much less proved in evidence, and while it is also manifest that precisely the same course must have been pursued had the respectable man been the slanderer, and the censured man been the injured party. Under the prejudices excited by such statements the parties are examined at the bar. The plaintiff is compelled to disclose his case to the defendant. He describes himself as grievously injured, and as severely suffering from the effects of the attack made upon his character by the defendant. He further declares, that he was wholly ignorant of the privileges of the House,—wholly unconscious of having acted in breach of them by bringing his suit,—a thing the more easily believed when we reflect that the nature of Parliamentary privilege was distinctly stated in debate to be wholly unknown to the judges of the land, and only understood by the House itself. Finally the attorney, who has been seized and imprisoned for following his client's instructions, declared that he acted under the advice of counsel, and afterwards informed the House, through a peer, that he had received directions to discontinue the action; yet both client and attorney are imprisoned,—the attorney after this communication was made,—and nothing whatever is done against the counsel who deliberately advised the whole proceeding.

14thly, Because nothing can be more unlike all the judicial proceedings to which the present has been compared than the course now pursued, inasmuch as whenever the law has declared

that a court shall not proceed in any case, by reason of another jurisdiction being interfered with, a particular mode of preventing this proceeding is provided by the known law; and in another and important particular the present proceeding is extremely unlike that of injunction, to which it has been likened, for an injunction is commenced to stay proceedings in one court, in order that justice may be done in another which has possession of the suit; nor is any one punished unless he disobey the order so given; whereas we issue no order, but at once proceed to punish the party before he has been guilty of any disobedience, or had any opportunity of doing what we desire he should do, and we punish him on the sole ground of his having broken some privilege unknown to him, and which we admit is understood by nobody but ourselves.

15thly, Because, finally, it is all along assumed in the course of these discussions, that whatever privilege we do not in any case exercise we cease to possess; whereas there are many privileges most undeniably belonging to us; some which in former times were constantly exercised,—some which we still declare to be ours on the face of our standing orders,—and none of which have now for a long time past been exercised at all; and in illustration of the varying usage which exists respecting such privileges it may further be remembered, that a very great change has come over this question even within the last forty years, as no one can affect to think that either the Houses of Parliament or the courts of justice would at this day punish summarily for contempt those acts which frequently were thus visited within that period of time, including the very publication for which Sir Francis Burdett was sent to the Tower, and which raised the last great discussion of the privilege question in Parliament, in the courts of law, and in this place.

Henry Brougham, Lord Brougham and Vaux.  
William Forward Howard, Earl of Wicklow.

DCCCX.

JULY 18, 1845.

The Field Gardens Bill was a measure which originated in the House of Commons, having been introduced by Mr. Cowper. Its object was to supply the poor in the neighbourhood of towns with allotments, the rent of such allotments being secured on the rates. It passed a second reading by 92 to 18, the majority being derived from both parties. It was read a

second time in the Lords, and referred to a Select Committee, who reported on the 24th of July, that it was inexpedient to proceed with it.

The following protest was entered at the second reading.

1st, Because by this Bill there may be established in every parish in the Kingdom a Board endowed with corporate privileges, irresponsible, and armed with powers which may be used for purposes of favouritism on the one hand, or of oppression on the other.

2ndly, Because the objects of this Bill, purporting to be subsidiary to the provisions for the relief of the poor under divers Acts of Parliament, are in truth in direct contravention to those principles.

3rdly, Because as in each parish where the provisions of this Bill shall be adopted the field warden will be wholly unconnected with those of every other, and uncontrolled by any superior power, it cannot be doubted that in process of time there will be introduced in different parishes a diversity of practice, which will lead to heartburnings, discontent, and confusion.

4thly, Because the provisions of this Bill, if carried out in the fairest and most equitable manner, will necessarily aggravate the acknowledged evils resulting from the present law of settlement.

5thly, Because its unavoidable tendency is to promote early and improvident marriages, and to give an unnatural stimulus to the increase of population, already superabundant in the agricultural districts.

6thly, Because the necessary consequence will be, the lowering of wages of the agricultural labourer.

7thly, Because the provisions of this Bill lead to the indefinite increase of holdings and division of land, and thus to many of the evils which now press so severely on the people of Ireland.

8thly, Because they are in accordance with an opinion, much in vogue, but which I think false in itself, and injurious to the people, founded on an unfair estimate of their intelligence and spirit, and (if acted upon) tending to lower their independence, and to degrade their moral condition, viz. that they cannot manage their own concerns, but must be cared for, controlled, and directed by others, their superiors perhaps in fortune, but I believe by no means superior to them in virtue, natural intelligence, or public spirit.

9thly, Because if I am mistaken in this character of the people

and their comparative worth, the evil ought to be cured by good example and education, and will only be aggravated by such measures as those contemplated by the present Bill.

William Pleydell Bouverie, Earl of Radnor.

## DCCCXI.

AUGUST 1, 1845.

Among the Bills regularly passed as Continuance Bills was one exempting Exchequer Bills from the operation of the Usury Laws. In the present case, the exemption was extended to the 1st of January, 1851. Lord Monteagle moved that these words should be omitted, and that these should be inserted in their place, 'that the said recited Act shall be made perpetual.' The amendment was rejected by 37 to 9.

The following protest was inserted.

1st, Because the continuance of laws restraining the interest of money has not only been condemned by the authority of the most eminent writers, but by the experience of commercial men.

2ndly, Because the various relaxations of the Usury Laws which have been sanctioned by Parliament in 1833, 1837, 1839, 1841, and 1843, adopting in the most important transactions the principle of a freedom of trade in lending and borrowing money, and gradually extending that important principle, demonstrate the opinion of the Legislature on the subject.

3rdly, Because the declaration of the Bank of England, and the evidence taken before the committee both of this and the other House of Parliament, applicable as it is to a period of time comprehending alterations of commercial prosperity and of commercial pressure and to a state of extreme and of favourable exchange, establish the same general principle, and prove that the repeated relaxation of the Usury Laws already adverted to have been productive of the most beneficial consequences to individuals and to the public.

4thly, Because this combination of general scientific authority of evidence of practical men and of experience renders a further continuance of temporary and fluctuating legislation inexpedient on a subject on which, for the interest of commerce, it is necessary that law should be fixed and permanent.

Thomas Spring Rice, Lord Monteagle of Brandon.

## DCCCXII.

APRIL 27, 1846.

On this day Lord Dalhousie brought forward, on the part of the Government, a series of resolutions on Railway Legislation, the whole of which were agreed to without a division. See Hansard, Third Series, vol. lxxxv, p. 1050.

The following protest was inserted.

1st, Because I think it is unseemly, impolitic, and of bad example that this House should, to meet the supposed emergency of a particular case, alter by *ex post facto* resolutions its own established regulations, and thus enable certain parties to violate engagements which others had entered into with them on the faith of those regulations.

2ndly, Because such a proceeding impairs (if it does not totally destroy) the confidence which should be reposed in the regulations of this House.

3rdly, Because the real purport and ultimate effect of these resolutions are not to bring about any public or national object connected with the construction of the proposed railways, but gratuitously to relieve parties (whether companies or private individuals) from engagements which they have wantonly and heedlessly contracted.

4thly, Because, if it were expedient to put an end to these engagements, the responsibility and onus of taking the necessary steps for that purpose should be left to the parties themselves, and not be undertaken by the House.

5thly, Because the House thus goes out of its way to interpose in, and intermeddle with, the affairs of private parties.

6thly, Because in truth the parties intended thus to be relieved have, in many cases, incurred their responsibilities without any view to the public good, but merely in the spirit of reckless gambling for their own private gain, and have therefore no claim to so unusual an interposition on their behalf.

7thly, Because the House thus holds out an expectation, that, on future similar occasions, it may be induced to afford similar relief, and thus, if it does not directly encourage such a spirit, it does not so discourage it, or throw such a stigma on it, as according to every principle of sound policy and good morals it is bound to do.

8thly, Because this unprecedented and mischievous proceeding appears to me the more uncalled for, even in the view of its supporters, as there is now before the House a Bill which will enable the persons to whom these resolutions apply to effect the same object directly for themselves, and there is no reason to anticipate that it will not pass into a law.

William Pleydell Bouverie, Earl of Radnor.

### DCCCXIII.

MAY 28, 1846.

The debate on the second reading of the Corn Importation Bill, *i. e.* the abandonment of protection to agriculture, was begun on the 25th of May, and was continued for three nights, the Duke of Richmond leading the opposition. The second reading was carried by 211 to 164. See Hansard, Third Series, vol. lxxxvi, pp. 1084-1405.

The following protest was inserted at this stage.

1st, Because it is the bounden duty of every Government to secure full and effectual protection to native industry in all its various branches, and especially in agriculture, on account of the exclusive burdens to which it is subject, and of the paramount importance of providing an ample supply of food without being dependent upon foreign nations.

2ndly, Because, under a protective system the production of food in the United Kingdom has been very much increased by the extension and improvement of agriculture, but would by the proposed measure be so much discouraged that a famine might be apprehended in the event of unfavourable seasons, When other countries might be unable or unwilling to furnish the requisite supplies.

3rdly, Because the proposed measure would entirely prevent the cultivation of the waste lands, which would yield a great additional supply of food, and give permanent and beneficial employment to an immense number of labourers, and which is therefore an object of the utmost national importance.

4thly, Because an unrestricted competition with foreigners in the home market would require such a reduction of taxation as might render it impracticable to satisfy the claims of the public creditors, or to maintain those naval and military establishments which are necessary for the national defence.

5thly, Because the proposed measure would be unjustifiable, even though it were to be attended with reciprocity on the part of foreign governments, which, however, there is no reason to expect, as all of them continue to act upon that protective system which is founded in patriotism and wisdom, and which has been proved by the example of this country to be eminently beneficial, and to have given to it great prosperity and power.

6thly, Because the natural result of the proposed measure would be to reduce so much the prices of corn as to render impossible the execution of many contracts which were formed upon the faith of legislative enactments, but which from a total change of circumstances would become quite inapplicable, and would require an equitable adjustment.

7thly, Because the proposed measure would be extremely injurious to many of the industrious classes, by diminishing the wages or the means of employment of the agricultural labourers, and the expenditure of the owners and occupiers of land, and, consequently, the demand in the home market, which is by far the most valuable and important, as well as the most secure.

8thly, Because a long-continued importation of foreign corn might lead to a considerable exportation of specie, and therefore to a contraction of the currency, to a scarcity of money, and to such a stagnation of trade as would be attended with great and general distress.

9thly, Because the injuries which the proposed measure would inflict upon Ireland would very much increase the discontent and agitation which prevail in that country, and might, in concurrence with other causes, produce the most calamitous results, even the repeal of the Union.

10thly, Because the proposed measure is altogether indefensible, is ruinous in its nature, and may prove to be revolutionary in its operation.

Philip Henry Stanhope, Earl Stanhope.

#### DCCCCXIV.

JUNE 4, 1846.

The Customs Duties Bill (9 and 10 Victoria, cap. 23) was a second instalment of the Free Trade System adopted by Sir Robert Peel. It

abolished many duties on provisions, revised the tariff, and simplified the system of collecting the revenue. The Duke of Richmond moved that the Bill be read that day six months, but withdrew his motion. The following protest was inserted.

1st, Because all those who are engaged in any branch of native industry are justly entitled to full and effectual protection in the home market against the competition of foreigners, who, from working at lower wages, and from being much less burthened with taxation, might be able to undersell them, and thus to deprive them of their due remuneration.

2ndly, Because this country has very long flourished under a system of protection, which enabled it to establish several branches of industry that would not otherwise have existed, and to give profitable employment to an increasing population.

3rdly, Because it cannot reasonably be expected that the proposed reductions of duties would be followed by reciprocity on the part of any foreign State; but even if such were to be the case, and that some branches of native industry were encouraged, while others were depressed, the measure could not be justified, as no Government has a right to impoverish one portion of the community for the profit of another.

4thly, Because the proposed measure would be most injurious to many of the industrious classes, by reducing their wages, or by depriving them of employment, and would thus produce great distress and discontent, which would be detrimental and dangerous to all the other classes of the community.

5thly, Because all the industrious classes ought to be fully represented in the House of Commons, which is not at present the case, and could not be deprived of protection without the most flagrant injustice, without destroying their respect for the existing institutions of the country, and without endangering the security of property of every description.

Philip Henry Stanhope, Earl Stanhope.

DCCCXV, DCCCXVI.

JUNE 25, 1846.

The Lords debated the motion of going into Committee on the Corn Importation Bill, on the 11th, 12th, and 15th of June, when the motion



was carried by 33 votes. It was debated in Committee on the 16th, 19th, and 22nd of June, and was read a third time on the 25th of June without a division. On the same evening Sir Robert Peel was defeated on an Irish Coercion Bill by 292 to 219. He resigned on the 29th of June.

The following protests were entered.

Because the Bill for repealing the Corn Laws is not accompanied, as in justice it ought to have been, by the following measures; viz.

1. The entire and immediate repeal of all the taxes which fall directly upon land, the land tax, the malt tax, and the hop duty.
2. The equalisation of all the rates of which the occupiers of land bear, at present, an unfair and undue proportion, the poor rates, the highway rates, and the county rates.
3. An alteration of the Tithe Commutation Act, which can no longer be just or applicable.
4. A legislative enactment authorising all persons who hold leases of land for unexpired terms of years to surrender them, on giving six months' notice before any of the usual days of payment.
5. A legislative enactment directing the payment stipulated in every contract to be reduced according to the proportion which the average price of wheat at the time of making such payment bears to its average price at the time that such contract was formed, so that such payment may be of the same value as was originally intended and agreed to by the parties.
6. A legislative enactment authorising the cultivation of tobacco, and the preparation of sugar from beet root or other vegetables, and exempting the said tobacco and sugar from the payment of any duty.
7. The entire and immediate repeal of those duties which are imposed upon articles of general consumption, of the Excise duty on soap, and of the Customs duties on sugar and coffee the produce of British Colonies, and on those sorts of tea and tobacco which are used by the labouring classes.

Philip Henry Stanhope, Earl Stanhope.

Paulyn Reginald Serlo Rawdon Hastings, Marquis of Hastings.

James Howard Harris, Earl of **Malmesbury**.

Charles Lennox, Duke of **Richmond**, for the first six reasons.

Percy Clinton Sydney Smith, Lord **Penshurst** (Viscount Strangford), for the third reason.

Henry Somerset, Duke of **Beaufort**, for the first three reasons.

William David Murray, Earl of **Mansfield**, for the first three reasons.

Dunbar James Douglas, Earl of **Selkirk**, for the second reason.

Fletcher Norton, Lord **Grantley**, for the second reason.

George Alan Brodrick, Lord **Brodrick** (Viscount Midleton), for the first three reasons.

Edward Churchill, Lord **Crofton**, for the first two and sixth.

Arthur French, Lord **De Freyne**, for the first two and sixth.

William Thomas Le Poer Trench, Earl of **Clancarty**, for the first two and sixth.

Charles Augustus Bennet, Earl of **Tankerville**.

1st, Because the repeal of the Corn Laws will greatly increase the dependence of this country upon foreign countries for its supply of food, and will thereby expose it to dangers against which former statesmen have thought it essential to take legislative precautions.

2ndly, Because there is no security nor probability that other nations will take similar steps, and this country will therefore not only be exposed to the risks of failure of supply consequent on a state of war, but will also be exclusively subject to an unlimited influx of corn in times of abundance, and to sudden checks whenever short crops shall reduce the ordinary supply from the exporting countries, or their governments shall deem it necessary to take precautionary measures for their own protection, thus causing rapid and disastrous fluctuations of price in the markets of this country.

3rdly, Because under a system of protection the agriculture of this country has more than kept pace with the increasing demand of its increasing population, and because it is to be apprehended that the removal of protection may throw some lands out of cultivation, and check on others the progress of improvement which has led to this satisfactory result.

4thly, Because it is unjust to withdraw protection from the landed interest of this country while that interest remains subject to exclusive burthens imposed for purposes of general and not of special advantage.

5thly, Because the loss to be sustained by the repeal of the Corn Laws will fall most heavily on the least wealthy portion of the landed proprietors, will press immediately and severely on the tenant farmers, and through them with ruinous consequences on the agricultural labourers.

6thly, Because indirectly, but not less certainly, injurious consequences will result to the manufacturing interest, and especially to the artisans and mechanics, from competition with the agricultural labourers thrown out of employment, but principally from the loss of the home market, caused by the inability of the producers of grain, and those dependent on them, to consume manufactured goods to the same extent as heretofore.

7thly, Because the same cause will produce similar evil results to the tradesmen, retail dealers, and others in country towns, not themselves engaged in agricultural pursuits, but mainly dependent for their subsistence on their dealings with those who are so engaged.

8thly, Because the effect of a repeal of the Corn Laws will be especially injurious to Ireland by lowering the value of her principal exports, and by still farther reducing the demand for labour, the want of which is among the principal evils of her social condition.

9thly, Because a free trade in corn will cause a large and unnecessary diminution of annual income, thus impairing the revenue of the country at the same time that it cripples the resources of those classes on whom the weight of local taxation now mainly falls.

10thly, Because a general reduction of prices, consequent on a reduction of the price of corn, will tend unduly to raise the monied interest at the expense of all others, and to aggravate the pressure of the national burthens.

11thly, Because the removal of differential duties in favour of Canadian corn is at variance with the legislative encouragement held out to that colony by Parliament, on the faith of which the colonists have laid out large sums upon the improvement of their internal navigation; and because the removal of protection will divert the traffic of the interior from the Saint Lawrence and the British ports of Montreal and Quebec to the foreign port of New-York, thus throwing out of employment a large amount of

British shipping, severing the commercial interests of Canada from those of the parent country, and connecting those interests most intimately with the United States of America.

12thly, Because the adoption of a similar system with regard to other articles of commerce will tend to sever the strongest bond of union between this country and her colonies, will deprive the British merchant of that which is now his most certain market, and sap the foundation of that colonial system to which, commercially and politically, this country owes much of its present greatness.

Edward Geoffrey Smith Stanley, Lord **Stanley**.  
 Charles Lennox, Duke of **Richmond**.  
 Brownlow Cecil, Marquis of **Exeter**.  
 Henry Pelham Clinton, Duke of **Newcastle**.  
 Charles Philip Yorke, Earl of **Hardwicke**.  
 George Spencer Churchill, Duke of **Marlborough**.  
 Henry Richard Greville, Earl **Brooke and Warwick**.  
 John William Montagu, Earl of **Sandwich**.  
 James Howard Harris, Earl of **Malmesbury**.  
 Thomas Egerton, Earl of **Wilton**.  
 George Charles Bingham, Earl of **Lucan**.  
 John Thomas Freeman Mitford, Lord **Redesdale**.  
 Philip Henry Stanhope, Earl **Stanhope**.  
 John Henry Manners, Duke of **Rutland**.  
 George Murray, Bishop of **Rochester**.  
 Richard Boyle, Lord **Carleton** (Earl of Shannon).  
 William Duncombe, Earl of **Feversham**.  
 Edward Jervis Jervis, Viscount **St. Vincent**.  
 William Orde Poulett, Lord **Bolton**.  
 Paulyn Reginald Serlo Rawdon Hastings, Marquis of **Hastings**.  
 Edward Harley, Earl of **Oxford and Mortimer**.  
 Hayes St. Leger, Viscount **Doneraile**.  
 William George Fitzclarence, Earl of **Munster**.  
 Charles Fitzroy, Lord **Southampton**.  
 Henry Somerset, Duke of **Beaufort**.  
 Richard Noel Hill, Lord **Berwick**.  
 Alexander George Fraser, Lord **Saltoun**.  
 John Scott, Earl of **Eldon**.  
 Percy Clinton Sydney Smith, Lord **Penshurst** (Viscount Strangford).  
 Alexander Baring, Lord **Ashburton**.  
 Henry Hall Gage, Lord **Gage** (Viscount **Gage**).  
 Edward Bootle Wilbraham, Lord **Skelmersdale**.  
 George Cadogan, Earl **Cadogan**.  
 George Kenyon, Lord **Kenyon**.  
 John Rushout, Lord **Northwick**.

George Irby, Lord **Boston**.  
Henry Philpotts, Bishop of **Exeter**.  
Thomas Robert Drummond Hay, Lord **Hay** (Earl of Kinnoull).  
Richard Plantagenet Temple Nugent Brydges Chandos Grenville,  
Duke of **Buckingham and Chandos**.  
James Brownlow William Gascoyne Cecil, Marquis of **Salisbury**.  
George John West, Earl **Delawarr**.  
Thomas John Hamilton Fitzmaurice, Earl of **Orkney**.  
Charles John Manners Sutton, Viscount **Canterbury**.  
Fletcher Norton, Lord **Grantley**.  
Henry Vane, Duke of **Cleveland**.  
Christopher Bethel, Bishop of **Bangor**.  
John Henry Loftus, Lord **Loftus** (Marquis of Ely).  
John Henry Monk, Bishop of **Gloucester and Bristol**.  
Charles Herbert Pierrepont, Earl **Manvers**.  
William Carr Beresford, Viscount **Beresford**.  
Dunbar James Douglas, Earl of **Selkirk**.  
John Somers Cocks, Earl **Somers**.  
Henry Spencer Chichester, Lord **Templemore**.  
Charles Augustus Bennet, Earl of **Tankerville**.  
Charles William Bury, Earl of **Charleville**.  
William David Murray, Earl of **Mansfield**.  
William Legge, Earl of **Dartmouth**.  
Robert Campbell Scarlett, Lord **Abinger**.  
Horatio Nelson, Earl **Nelson**.  
Miles Thomas Stapleton, Lord **Beaumont**.  
John Edward Cornwallis Rous, Earl of **Stradbroke**.  
Horatio Walpole, Earl of **Orford**.  
Henry Francis Hepburne Scott, Lord **Polwarth**.  
George James Percival, Lord **Lovel and Holland** (Earl of Egmont).  
Warwick Lake, Viscount **Lake**.  
George Augustus Frederic George Holroyd, Lord **Sheffield** (Earl of Sheffield).  
Peter Robert Willoughby, Lord **Willoughby de Eresby**.  
David Ogilvy, Earl of **Airlie**.  
George Augustus Frederic Bridgman, Earl of **Bradford**.  
George Percy, Earl of **Beverley**.  
George Charles Mostyn, Lord **Vaux of Harrowden**.  
Charles Abbot, Lord **Colchester**.  
Henry John George Herbert, Earl of **Carnarvon**.  
George William Richard Fermor, Earl of **Pomfret**.  
George Alan Brodrick, Lord **Brodrick** (Viscount Midleton).  
John Dutton, Lord **Sherborne**.  
Edward Churchill, Lord **Crofton**.  
James Graham, Earl **Graham** (Duke of Montrose).  
Arthur French, Lord **De Freyne**.  
Edward Digby, Earl **Digby**.  
John Frederic Campbell, Earl of **Cawdor**.

Stapleton Cotton, Viscount Combermere.  
William Thomas Le Poer Trench, Earl of Clancarty.  
Robert Edward King, Viscount Lorton.  
John Colville, Lord Colville of Culross.  
George John Milles, Lord Sondes.  
George Stanhope, Earl of Chesterfield.  
Archibald William Montgomerie, Lord Ardrossan (Earl of  
Eglinton).  
Thomas Knox, Earl of Ranfurly.

## DCCCXVII, DCCCXVIII.

AUGUST 10, 1846.

The abolition of the Corn Laws, and the modification of the tariff, were followed, after the accession of Lord John Russell to office, by the abolition of the differential sugar duties. The first reading of a Bill to this effect was followed by the subjoined protests.

1st, Because the importation into the United Kingdom of sugar which is produced by the labour of slaves tends to promote the slave trade, with all its atrocities, and is quite inconsistent with the principle upon which this country has so long acted, and for which it has made, and still continues to make, enormous sacrifices.

2ndly, Because there is no reason to apprehend a deficiency in the supply of sugar from other sources, as the quantity which is produced in the East Indies and in other British possessions is rapidly increasing, which would also be the case with the British colonies in the West Indies if they received due protection and encouragement.

3rdly, Because the proposed measure would be most unjust to those colonies, and would be ruinous to their interests, which have already been grievously injured, by reducing the price of their produce without a corresponding reduction of the taxation to which it is subject, and by the want of sufficient labourers for their cultivation.

4thly, Because the consequences of the proposed measure might be very calamitous, and might occasion such distress and discontent as would ultimately lead to the separation of those very important colonies, which, when deprived of the protection that is justly due to them, might also lose their allegiance.

Philip Henry Stanhope, Earl Stanhope.

George James Percival, Lord Lovel and Holland (Earl of Egmont).

Henry Hall Gage, Lord Gage (Viscount Gage).

For the first reason.

Thomas Denman, Lord Denman.

For the first reason.

Samuel Wilberforce, Bishop of Oxford.

Because, beside all the other reasons of justice, humanity, and sound policy which prohibit a measure so directly, so inevitably, tending to the encouragement of the slave trade, it is wholly intolerable, as it is altogether unprecedented, to hurry through Parliament, at the very close of the Session, and after almost all its members have left town, such important measures, without the possibility of full discussion, and without giving the mother country or the colonies any notice of them ; measures which at one blow alter the whole commercial system of the country, and affect in the most serious manner and to the greatest extent the manufacturing and trading community of the Empire.

Alexander Baring, Lord Ashburton.

Henry Brougham, Lord Brougham and Vaux.

Thomas Denman, Lord Denman.

Samuel Wilberforce, Bishop of Oxford.

## DCCCXIX.

AUGUST 14, 1846.

An Act to regulate Joint Stock Banks in England and Ireland (9 and 10 Victoria, cap. 75) was met by the following protest on the third reading.

1st, Because the Bill is inconsistent with those free and liberal principles of trade by which her Majesty's Ministers are understood to be governed ; inasmuch as, under the pretence of removing a monopoly disadvantageous to the public, it covers the monopoly with a protection that fixes it more firmly than ever. While it professes to open the door to an equal dispensation of chartered privileges to all Scottish banks that may petition for them, it bars it at the same time against any bank but such as may choose to submit to vexatious conditions calculated to create in the public mind invidious distinctions between them and the old chartered banks, who by this Bill are to be exempt from such conditions.

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2ndly, Because the legislative interference with the management of joint stock companies which this Bill provides is erroneous in principle ; but even if it were sound the inconsistency of its application is conspicuous, as it imposes rigid rules and restrictions on one class of banks, whose constitution and unlimited responsibility offer to the public the most perfect security, while it exempts from all such interference another class of banks less securely constituted, and in which the probabilities of mismanagement are as great if not greater.

3rdly, Because the confining of certain privileges to one class of banks in Edinburgh, while the banks in other large towns are by this Bill to be debarred from the attainment of such privileges on equal terms with their competitors, is disadvantageous to the public ; for the exclusive privilege of receiving deposits of public money, trust funds, railway deposits, &c., greatly increases the trading power of the chartered establishments, and the large sums which are thus directed to these banks, in place of being permitted to flow in their natural channels, enables them to change the rate of discount when the existing state of commercial affairs does not warrant such a step, and the relations depending between other banks and the public are thus liable to be disturbed, and speculation encouraged.

4thly, Because this Bill takes away all discretionary power of granting charters of incorporation to banks founded on such equitable principles as circumstances may at the time suggest, and as was done in the case of the Commercial and of the National Banks of Scotland ; and because it limits the power of her Majesty to the granting of charters according to the specific provisions of this Bill only, that is, upon terms and conditions which no bank in Scotland is likely to accept, consequently this Bill, if passed into a law, will become an Act for no apparent object of public advantage, but in reality an Act for preserving to the five chartered banks of Edinburgh their existing monopoly.

William Pleydell Bouverie, Earl of **Radnor**.



## DCCCXX.

AUGUST 26, 1846.

The Act 9 and 10 Victoria, cap. 97, altered the process by which the costs of the Irish constabulary force was assessed, and relieved in some measure the property before liable to it. The Act contains seven clauses. It led to the following protest.

1st, Because a transfer to the State of that portion of constabulary charge now borne by the real property of Ireland is a relief rather to the owners of land than to those classes who, under existing circumstances, are the most entitled to the sympathy and the assistance of Parliament.

2ndly, Because the relief thus proposed to be given to land owners, amounting, as it does, to somewhat less than £1 on every 100 acres of the superficial contents of Ireland, will be unproductive of any material benefit to them, whilst it entails on the State a loss of upwards of £180,000 annually.

3rdly, Because the repeal of this local tax is in its operation contrary to all justice and sound principle, acting as a measure of relief in proportion to the turbulence of the several counties, conferring the greatest benefit where disturbance and crime have most prevailed, and the least benefit where peace and order have been maintained, and where the laws have been respected and obeyed.

4thly, Because the amount of national income thus wasted, if wisely appropriated in aid of the industry of the people, and for the development of the national resources, would have raised the wages of labour, improved the condition of the labourer, advanced the general interests of Ireland, and have ultimately flowed back to the Exchequer in the shape of increased revenue.

5thly, Because at a period of great emergency like the present, when the majority of the Irish people are deprived of their usual means of subsistence, the sacrifice for the benefit of the richer classes of an annual sum representing a capital of £5,000,000, whilst £50,000 only are appropriated for grants in aid of national industry, is wholly unjustifiable, and therefore is but ill-calculated to recommend the Imperial Legislature to confidence and respect.

6thly, Because the withdrawal of the constabulary from all local authority makes an unconstitutional change in the character of that force, rendering it less a body of civil constables than an organized

militia, irresponsible to the magistrates, without being made amenable to military law.

7thly, Because the repeal of this local charge must, in justice to Great Britain, lead to a much wider application of the same principle in respect to all other analogous burthens; a public provision for new and undefined expenditure being thus rendered necessary, at a period too when there is but too much reason to apprehend the perpetuation, in time of peace, of the existing tax upon property.

Thomas Spring Rice, Lord Monteagle of Brandon.

## DCCCXXI.

FEBRUARY 15, 1847.

In order to meet the distress in Ireland, caused immediately by the potato disease, Lord John Russell's Government introduced a series of measures. One of these, the Destitute Persons Bill, the second reading of which was moved by Lord Lansdowne, created a body of Commissioners who should up to the 1st of October make advances to the destitute by loan, and on the security of the rates; provision being also made that the destitution should be met by compulsory action in case the guardians neglected the duty. The Bill was read a second time without a division. The debate in the Lords is in *Hansard*, Third Series, vol. lxxxix, p. 1324.

The following protest was entered.

1st, Because this Bill is based on the principle that it is the duty of a Government to provide food for the people, and I consider this principle false in theory, and as leading to injustice and disastrous consequences if attempted in practice. It is false in theory, as being, in the natural state of things, utterly impracticable, the Government having no store of food wherewith to supply the people, or funds for providing the same. In practice it leads to injustice and disastrous consequences, because such funds can be obtained only by taxation; and if the taxes are levied (as they ought and profess to be) equally on all, the whole will be taxed to supply the wants of a part, the consequence of which must be, that some persons on the verge of destitution will be thus reduced to the same state as those whom they are taxed to relieve, and that those who by prudence and industry have raised themselves out of the reach of want will be taxed for the relief of the improvident and idle.

2ndly, Because it is dangerous for a Government to take any step which is calculated to instil into the minds of the people

the belief that they need not rely on their own exertions for their well-being, and a hope that if they omit to take proper care of themselves it will relieve their necessities and gratuitously support them.

3rdly, Because the Irish people are of a temperament peculiarly likely to be so misled.

4thly, Because experience, both in Ireland and in England, under the old administration of the Poor Law, proves that the attempt to provide gratuitously for the needy is in its result dangerous to property and to the independence and well-being of the people, and injurious to none more than to those very persons whose benefit is thereby sought, by superseding the necessity and thus repressing the energy of their own exertions to help themselves, by diverting them from those resources which the pressure of want would disclose, and, above all, by teaching them to rely on external aid, which, as it cannot be efficient in extent or permanent in duration, will finally leave them disappointed and discontented, and more destitute and helpless than before.

5thly, Because I fear that if this measure be adopted it will necessarily lead to other measures of a similar nature, and that, though some present relief may be given to existing misery and destitution, it will lead hereafter to an alarming increase of the evils thus temporarily mitigated; and that, therefore, though feelings of the most praiseworthy and benevolent character prompt its adoption, prudence, reason, and true wisdom would reject it.

6thly, Because charity is a proper motive for the private conduct of individuals, but justice the paramount duty of a Government, and because charity to some on the part of the latter works out present injustice to others, and ultimately evil to all.

William Pleydell Bouverie, Earl of Radnor.

## DCCCXXII, DCCCXXIII.

MARCH 26, 1847.

Lord Monteagle moved for a select committee, for the purpose of 'considering and reporting on the recommendations of several Parliamentary committees and commissioners on the state of the Irish poor, as relating to the expediency of introducing permanently the system of out-door relief for the able-bodied labourer.' The motion was opposed on the part of the Government by Earl Grey. It was supported by Earl Fitzwilliam

and the Archbishop of Dublin (Whateley) but was defeated by 39 to 12. See Hansard, Third Series, vol. xci, p. 418.

The following protests were entered.

1st, Because when it is proposed to legislate in opposition to the principles which during the last half century have been uniformly admitted by all writers of eminence, as well as by all parliamentary authorities, the refusal of inquiry implies a most culpable rashness.

2ndly, Because the proposed measure is confessedly one of vast importance to the permanent welfare and safety of a large portion of the Empire; it is a measure which even its advocates admit to be a great and hazardous experiment, and which is regarded by many as involving nothing less than a general confiscation, and the adoption of such a measure appears to us to call for the most accurate previous examination of all such reports and public documents as may throw light on the subject, in order that the Legislature may stand clear of the charge of a reckless and wanton disregard of the rights and happiness of our fellow subjects.

3rdly, Because we feel convinced that the proposed inquiry would have elicited easily, in a short time, and conclusively, solutions to the following three most important questions; solutions which ought to be brought fully before the minds of those who shall have to decide finally on the proposed alteration of the Irish Poor Law:

1. Whether it be or be not physically impossible (even with the best dispositions in all the parties concerned), that it can at all effect the proposed relief?
2. Whether the attempt will or will not have the effect of ruining both the owners and occupiers of land, and putting an entire stop to cultivation? and
3. Whether it will not by demoralising the mass of the people, and permanently destroying the habits of industry and self-dependence, increase to a frightful extent the amount of pauperism and crime in Ireland, and ultimately exhaust the resources and endanger the safety of the United Kingdom?

4thly, Because when it is proposed on a sudden temporary and unusual emergency to introduce not a merely temporary but a

permanent legislative measure, and that too a measure which it will be peculiarly difficult and dangerous to repeal hereafter, it behoves the Legislature to examine with a doubly scrupulous and anxious care the grounds on which such a measure is recommended, and the consequences to which it may lead, lest Parliament should incur merited reprobation as having augmented by such procedure the calamity which it is sought to remedy, and perpetuated and rendered incurable evils which would otherwise have only been temporary.

Richard Whateley, Archbishop of **Dublin**.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

Stephen Moore, Earl of **Mount Cashell**.

William Pleydell Bouverie, Earl of **Radnor**.

1st, Because the danger of permanent legislation under the pressure of a temporary emergency can only be averted or diminished by the most careful reference to past events; and that for such purpose a review of the evidence taken and the recommendations given under circumstances admitting of the exercise of a calm, deliberate, and impartial judgment, become of the highest importance in guiding the deliberations of the Legislature.

2ndly, Because the dangers of permanent legislation in a crisis like the present, when a great portion of the British Empire is reduced to a state of unexampled destitution, are strikingly exemplified by the measures so unfortunately passed by Parliament under circumstances strictly analogous in 1795 and 1800, measures which produced calamities difficult to remove, and from the consequences of which England is still suffering.

3rdly, Because an examination of the history of the past becomes the more necessary when the Legislature is called on to abandon and overrule,

1. The opinion of the parliamentary committee, which in 1804 resolved, 'That the adoption of a general system of relief for the poor of Ireland would be highly injurious to that country, and would not produce any real and permanent advantage even to the poorer classes who must be the subjects of such support;'
2. The opinion of a subsequent committee which reported in 1819, 'That the establishment of a system of Poor Law

would produce in a country like Ireland incalculable evils to every class of the community ;'

3. The opinion of the committee of 1823, which stated, 'That any system of relief, however benevolently intended, leading the peasantry to depend upon the interposition of others rather than upon their own labour, could not but repress all those exertions of industry which are essentially necessary to the improvement of the condition of the labouring classes ;'
4. The experience of English Poor Law administration, as exemplified in the reports of the House of Commons committee of 1817, of the commission of inquiry of 1833, and which led to the amendment of the Poor Law of England in 1834 ;
5. The deliberate judgment of a royal commission appointed specially to consider the condition of the Irish poor, and which reported in 1836 that if any 'considerable portion of the rental of a country were to be devoted to the support of unproductive labourers, commerce must decay, and the demand for agricultural produce and other commodities must contract, the number of persons out of employment and in need of support must increase, and general ruin be the result ;'
6. The recommendations of Mr. Nicholls, on which the King's Government of 1838 introduced and Parliament passed the Irish Poor Law Act, in which recommendation it was expressly stated, 'That no relief should be given except in the workhouse, and that this limitation should be specified in the Act, in order to protect the central authority from the pressure which is not unlikely to occur on this point ;'
7. The express declaration of the ministers responsible for the framing and introduction of the Irish Poor Law, and which announced, 'That the administration of outdoor relief would lead to a most pernicious system, mixing up mendicancy and charity with labour, a system of persons partly obtaining support by labour and partly from the public purse, and which would not only produce in Ireland the evils which have existed in England, but

evils very much greater, till out-door relief came to absorb a much greater portion of the produce of the land;'

8. The evidence of Mr. Cornwall Lewis, Mr. Twisleton, Mr. Gulson, and Mr. Clements, all of whom had recent practical experience in the administration of the Poor Law in Ireland, agreeing in a conviction of the danger and ruin which must attend the introduction of out-door relief in that country, a judgment adopted by the select committee of the Lords in the last Session, which expressed a decided opinion, 'That the introduction of any system of out-door relief would be dangerous to the general interests of the community, and more particularly to the interests of the very class for whose well-being this relief was intended.'

4thly, Because we consider it the more rash and unwise to set aside and overrule this unbroken series of parliamentary judgments, without the most careful and deliberate inquiry, as no attempt has been made in debate to impugn or to deny their force, or to meet them by conflicting authority or evidence, and that by the rejection of the motion for a committee an inference is justly raised that no such conflicting evidence can be produced or is producible.

Thomas Spring Rice, Lord Monteaale of Brandon.

William Pleydell Bouverie, Earl of Radnor.

Stephen Moore, Earl of Mount Cashell.

## DCCCXXIV, DCCCXXV.

MAY 14, 1847.

The machinery of the old Irish Poor Law was utterly inadequate to deal with the distress prevalent in the island during 1846-47, and new legislation became necessary; hence 10 and 11 Victoria, cap. xxxi. The Act contains 31 clauses. The subjoined protests were inserted (1) at the time the Report was received, and (2) on a clause added on the Report, which clause had been rejected previously by the Committee, and which sanctioned out-door relief under certain circumstances and in certain forms. The principal division taken in the Lords was one which eliminated clauses implying a temporary application of the Act, and which the Committee had inserted. These were reversed on the Report by 54 to 42.

1st, Because the first clause, conferring discretionary powers to

Boards of Guardians to give relief in or out of the workhouse, involves an abandonment of the principle of the existing law, uncalled for by any necessity, opposed to the recommendations of every report bearing upon the subject that has been laid before Parliament, and unsupported by a single argument adduced in the course of debate.

2ndly, Because it is of importance to maintain a distinction between those who support themselves by their own labour, or who are supported by that of their families, and those who depend upon Poor Law Relief, a distinction which is at present clearly established by the administration of relief in the workhouse, but which will necessarily cease when it comes to be dispensed at the dwellings of the poor, as the recipients of public aid will generally be as well, if not better, provided for than the families of labouring men.

3rdly, Because the primary object of the institution of workhouses in Ireland having been to afford relief to poor persons, helpless through age, infirmity, or defect, and to destitute children, such relief has been given with advantage to those who are the objects of it, as well as with security against abuse.

4thly, Because the fifth clause authorizing the Poor Law Commissioners to direct the appointment of medical officers to afford medical relief out of the workhouse never could be necessary, if the interests of the industrious poor were duly attended to Government, by placing the dispensaries and other medical charities of Ireland upon a footing of efficiency as recommended in various reports that have been laid before Parliament.

5thly, Because the ninth clause, disqualifying any person who holds more than a quarter of an acre from receiving relief, unless he has surrendered his holding to his immediate landlord, 'which surrender the landlord shall be required to accept,' is an interference with the rights of property which may lead to great hardship and inconvenience, and to the evasion of every covenant or agreement by which a tenant might have, at any time or under any circumstances, bound himself, whether to his landlord or to any other party, in virtue of his occupation of land or tenement.

6thly, Because the nineteenth clause for increasing the proportion of *ex-officio* Guardians of the Poor is an interference with the elective principle upon which the Boards of Guardians were origi-



nally founded, uncalled for by any necessity, and calculated to impair the usefulness of the institution.

William Thomas Le Poer Trench, Viscount Clancarty (Earl of Clancarty).

Thomas Spring Rice, Lord Monteagle of Brandon, for reasons one, two, three, four.

Stephen Moore, Earl of Mount Cashell, for the five first reasons.

1st, Because it appears to us rash and inexpedient to enact as permanent a measure which in the judgment of many, even among those who recommend the Bill for the sanction of the Legislature, is admitted to be a perilous experiment.

2ndly, Because the reversal by the House of a decision of its Committee, adopted on deliberation and after full debate, is calculated to lessen the authority of this branch of the Legislature, and the weight justly due to its consistency and to the wisdom of its final judgment.

3rdly, Because these objections apply with still greater force when the majority of those who are more immediately connected by birth and property with Ireland have expressed their conviction or their serious apprehension that this measure cannot be carried into effect in many districts without leading to the general pauperism of the peasantry, and without absorbing so large a portion of those funds out of which labour is paid as to check industry and retard improvement.

4thly, Because the recognition by law of the out-door relief of the able-bodied poor as a permanent principle is at variance with all Parliamentary and official authorities, and is at variance likewise with the experience which late events have furnished to this House and to the public.

5thly, Because the difficulty of carrying into permanent effect a system of out-door relief for the able-bodied, more especially when administered through the medium of relieving officers acting singly, and necessarily in many cases without adequate protection, appears but too likely to lead to attempts at violence and intimidation, rendering the free and impartial exercise of judgment and authority in all cases difficult, in many cases dangerous, and it may be feared in some cases impossible.

6thly, Because it appears to us that it is imprudent on the part

of the Legislature in a case like the present, when even the most sanguine are doubtful of the result, to hold out to the Irish public that assured expectation of the success of the measure which the enactment of this Bill as a permanent law is but too well calculated to create and to justify.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

William Thomas le Poer Trench, Viscount **Clancarty** (Earl of Clancarty), except fourth and fifth reasons.

Otway O'Connor Cuffe, Earl of **Desart**, except second and third reasons.

George Charles Bingham, Earl of **Lucan**, for all except the second reason.

Arthur Wills Blundell Sandys Trumbull Windsor Hill, Marquis of **Downshire**<sup>1</sup>.

Stephen Moore, Earl of **Mount Cashell**.

## DCCCXXVI.

MAY 18, 1847.

The third reading of the Irish Poor Law Bill led to a short debate, Hansard, Third Series, vol. xcii, p. 1040, but was carried without a division.

The following protest was entered.

1st, Because every law giving to the destitute a claim to relief must of necessity have a tendency to induce amongst the objects of its care, improvident habits; and this tendency is increased in more than an equal ratio as the range of objects to which it applies is enlarged, and the nature of the relief extended.

2ndly, Because the Irish people seem either from natural constitution or from adventitious circumstances peculiarly prone to such habits; and to them, their present distress may, in my opinion, be mainly traced.

3rdly, Because the tendency of this Bill therefore is, in its result, rather to increase than to diminish the probability of the recurrence of that distress.

4thly, Because it appears that there is in Ireland a great want of the machinery necessary for the proper administration of the law.

5thly, Because this Bill contemplates the necessity of giving out-door relief, and it has been found by experience in England,

<sup>1</sup> Lord Downshire is entered in the Journals by his proper title (Earl of Hillsborough).

that it is very difficult to resist the pressure which is at times brought to bear against the checks imposed by law, for securing the wholesome administration of such relief; and because the experience of the working of the 9th and 10th Victoria, cap. 107, in Ireland proves it to be probable, that the difficulty there will be still greater; and if those checks are once broken through, the total absorption of the property of the country, and the entire demoralisation of the people will be the necessary consequence.

6thly, Because this Bill, intended to effect a complete and lasting change in the habits and manners of the people of Ireland, avowedly an experiment, admitted by all to be a difficult, and characterized by some of its supporters as a doubtful and a hazardous one, has been brought in and passed under the excitement of a grievous accidental and temporary calamity, which precludes its receiving that calm and dispassionate consideration which so important a measure demands.

7thly, Because it is notorious that the desire generally manifested for a Bill of this nature has had its origin in the inconvenience resulting from this accidental and temporary calamity, and the consequent influx into England of destitute Irish families; and is suggested; not so much by the hope that it will benefit the people of Ireland, as in the expectation, which I believe will turn out to be quite fallacious, that it will prevent the recurrence of similar inconvenience.

8thly, Because, therefore, I consider this Bill in itself objectionable; not calculated to ameliorate the condition of the people of Ireland; incapable of being satisfactorily administered; likely to be destructive to property and dangerous to the independence of the poor in Ireland; introduced and passed at an unfit time and without due consideration—and though called for by the people of England, called for on erroneous grounds.

William Pleydell Bouverie, Earl of Radnor.

Thomas Spring Rice, Lord Monteagle of Brandon, for all reasons except the second.

For the fourth, fifth, sixth, seventh, and eighth reasons.

Charles William Fitzwilliam, Earl Fitzwilliam.

William Cavendish, Earl of Burlington.

## DCCCXXVII.

MAY 31, 1847.

By 10 and 11 Victoria, cap. 37, the term for which a soldier was enlisted was limited to ten years in the Infantry, and twelve years in the Cavalry, Artillery, or other Ordnance forces; provided the recruit was eighteen years of age on the day on which he was attested, or from his eighteenth birthday. He could re-enlist if he liked, and must be conveyed home if he desired at the conclusion of his service. The Bill passed by large majorities in the Commons, but was warmly opposed in the Lords, notwithstanding the support given it by the Duke of Wellington; the second reading being carried by 108 to 94. See Hansard, Third Series, vol. xci, p. 1316. The third reading was also opposed, but the opposition was not pressed. An attempt to extend the period from ten and twelve to twelve and fourteen years was lost by 38 to 30.

The following protest was inserted.

1st, Because an attempt to introduce limited service was first proposed in 1713. The system or plan lasted two years, and was abandoned from its total failure. It was tried, however, again in 1775, and continued to the end of the war, but was unsuccessful in its operations during the American War. In later periods, in 1806, it was resorted to in another form of periods of limited service, but signally and completely disappointed the expectations that were formed of the measure, to obtain more recruits, and a better class of men; and in the midst of the war in the Peninsula much inconvenience and disorder might have arisen but for the foresight and precaution of the great commander, the limited service men being then his best troops, who had served seven or eight years, and who had a right to their discharge, and had not very large bounties been given they might have been lost to the army, and their loss would have been most fatal.

2ndly, Because, whilst it is most desirable to adopt every possible measure for improving the comforts and the social and the moral conditions of our soldiers, it is highly injudicious and inexpedient to attempt experiments (which are avowed as such), and which experiments may tend to shake the good feelings now existing and the discipline hitherto prevailing in the British army, which never at any moment in history stood higher for its warlike achievements and admirable conduct.

3rdly, Because, while it is admitted from the very highest authority, that the old soldiers of the British army give to it

all its perfection and matchless excellence, it is manifest that the present Army Service Bill presents a risk and offers an occasion of losing the very men who, after their service of ten years, become the most valuable, and who still may be in the prime of life, from thirty to forty, for all purposes of hard fatigue and military service. It is therefore highly impolitic to hazard this experiment, and far more judicious to retain the present regulations, which allow all soldiers, under a most liberal plan, and with good character, to receive their discharge by the recommendation of their officers and the decision of the Commander-in-Chief.

4thly, Because, as has been clearly and unanswerably shown, great inconvenience must result to our Colonial Service from the plan now proposed; and especially in the minutiae of every regimental arrangement. If men had six or eight months to serve, and were ordered out to India, that circumstance might occasion a degree of discontent among them. The army in the East, as has been ably shown, presents many further obstructions to the eligibility of this measure; and it will be necessary, when it shall be in full operation, and one-tenth annually of 72,000 men (our average force serving in the Colonies) shall be entitled to discharge, and must be brought home, to make frequent reliefs of corps, at great difficulty and inconvenience.

Finally, Because the Government must either have a most extraordinary confidence in themselves, or expect an unlimited confidence from others, if they imagine that a measure of such magnitude, sanctioning changes so hazardous, and on such fanciful theories, and above all against the opinion of nine-tenths of the British army, can be carried into effect without stronger or more cogent reasons than have hitherto been advanced by them for these new experiments, under their Army Service Bill, on the British army.

Charles William Stewart, Earl Vane (Marquis of Londonderry).  
James Thomas Brudenell, Earl of Cardigan.

## DCCCXXVIII.

JUNE 1, 1847.

The Factories Bill (10 and 11 Victoria, cap. 29) extended the provisions of 3 and 4 William IV, cap. 103, and 7 and 8 Victoria, cap. 16.

It limited the hours during which all persons under eighteen years of age could be employed in factories, and protected the labour of women by extending the limitation to all women. The Bill was rejected in 1845. The third reading in the Commons was carried by 151 to 88, Sir Robert Peel being in the minority, Lord John Russell and Mr. Disraeli in the majority. The second reading in the Lords was carried by 53 to 11, Lord Ellesmere having taken charge of the Bill.

The following protest was inserted on the third reading.

1st, Because any legislative restraints imposed on the freedom of adult labour is inconsistent with all sound principle, and with the successful development and adequate reward of industry.

2ndly, Because a limitation by law of the hours of labour must either diminish the profits of capital or the wages of the workmen, or may probably lead to both these results; in one case discouraging the application of capital to the production of wealth; in another, pressing severely on the comforts of the labouring classes; and in both cases tending to check the progress of important national interests.

3rdly, Because, so far as such interference with industry raises price, it must necessarily abridge the command which the consumer possesses over the comforts and necessities of life, whilst at the same time wages suffer depression; thus subjecting the working classes to the double evil of lessened receipt and of increased expenditure.

4thly, Because this Bill is no less opposed to all sound principle than to all experience; the periods during which fluctuations of trade compel manufacturers to work short time being invariably periods of depression and privation to the working classes, and there appearing no practical difference between a legislative reduction of the hours of labour and that which results from a reduction of demand, except that the one proceeds from causes which cannot be controlled, whilst the other is the gratuitous act of the supreme power of the State.

5thly, Because, at a time when so vast a portion of British industry is dependent on foreign trade, to impose on our home producers artificial restraints from which their rivals abroad are exempt is to create an overwhelming and fatal competition against ourselves, placing at risk our greatest interests, financial as well as commercial.

6thly, Because if the productiveness of capital invested in

domestic manufactures is lessened by unwise laws, this change cannot fail to operate as a bounty upon the transfer of capital to foreign countries; a transfer injurious to the British producer and consumer, to the British labourer, and to the employer of labour.

7thly, Because at all times when deficient harvests or other causes render an increased supply of food requisite from abroad, an enhancement of the cost of our manufactures must likewise enhance our difficulty in paying for imported food; tending to force an export of bullion, deranging our currency, and endangering public and private credit.

8thly, Because as the restraints of this Bill apply exclusively to labour in factories, whilst labour infinitely more severe and injurious to health is left without analogous restriction, the consequence must be, not to improve but to deteriorate the physical condition of the working classes.

9thly, Because the enactments of this Bill are founded on the fallacy that it lies within the competency of Parliament to give a better protection to workmen in their industry than is derived from their own reason and intelligence, and must also encourage the dangerous delusion that the interests of the employer and the employed are necessarily opposed and conflicting, requiring the protection of the law for the regulation of hours of work, the amount of profits, and the rate of wages, matters depending upon principles which no direct legislation can reach, and with which no Legislature can intermeddle consistently either with sound policy or with justice.

10thly, Because the enactments of this Bill, where apparently limited to the labour of children and young persons, practically restrain the profitable employment of adult labour.

Thomas Spring Rice, Lord Monteagle of Brandon.

Alexander Baring, Lord Ashburton.

William Pleydell Bouverie, Earl of Radnor.

Thomas Henry Foley, Lord Foley.

John Wrottesley, Lord Wrottesley.

DCCCXXIX.

JUNE 10, 1847.

The pressure of railway business on the House of Lords was very great this year, and it was not easy or even possible to pass Railway Bills

through the necessary stages. A report from a Select Committee had recommended therefore that the standing orders of the House should be suspended as regards these Bills, and that the promoters of them might be allowed to suspend further proceedings in the present Session, with option of taking up the Bills in the next Session at the stage where the Bill was suspended. This recommendation was adopted, and the following protest was inserted.

- 1st, Because the principle of allowing Bills to be commenced in one Session and finished in another, and of binding the House by a vote in one Session to a particular course of proceeding in respect to any Bill in another Session, is at all times essentially unconstitutional and vicious.

2ndly, Because the adoption of it on the present occasion is more than ordinarily objectionable, as it is probable that this Parliament will be dissolved at the close of the present Session, and all parliamentary and constitutional principle must be most dangerously violated if this House shall, by any proceeding or resolution, appear to hold or even to imply that a new House of Commons is or ought to be considered in any degree bound by any resolution of the existing House of Commons.

3rdly, Because by the resolution against which I now protest, this House assures the promoters of railway bills that they shall be empowered to suspend all further proceedings, with the option of proceeding with the same Bill in the next Session of Parliament at the stage where the Bill shall be now suspended, and thus enters into an engagement with parties to give them certain advantages next Session which it cannot fulfil, except with the concurrence of the House of Commons, while circumstances preclude it from receiving from that House any assurance that it will be disposed to act in accordance with the engagements of the House of Lords.

John Thomas Freeman Mitford, Lord **Redesdale**.

Percy Clinton Sydney Smith, Lord **Penshurst** (Viscount Strangford).

Thomas Spring Rice, Lord **Monteagle of Brandon**, for the second and third reasons.

DCCCXXX.

JUNE 24, 1847.

The Act 10 and 11 Victoria, cap. 108, created the Bishopric of Manchester, and an Archdeaconry of Liverpool. The first clause of the Act



specified the limits of the diocese, the second provided that there should be no increase in the number of Bishops having seats in the House of Lords. In Committee on the Bill (22nd of June), Lord Redesdale proposed to substitute a clause giving the Queen power to summon the Bishop who should be named to the see. The motion was resisted by Lord Lansdowne, and rejected by 44 to 14, eight Bishops voting with the majority, three with the minority. The following protest was inserted at the third reading, when a second attempt was made to omit the clause.

1st, Because when Parliament declares that the interests of the Church require an increase in the number of the Bishops of England and Wales, it is an ungracious interference with the prerogative of the Crown as enjoyed by her Majesty's predecessors to annex to the creation of such bishoprics the condition that the number of bishops sitting in Parliament shall not be increased, and to take away from her Majesty, her heirs and successors, the power of summoning to Parliament all or any of these bishops at any future period, if it should become her or their wish to do so, thus permanently limiting the royal prerogative under the pretext that her Majesty has been pleased to declare that as at present advised she does not contemplate the issue of her writ to the new bishops, except as vacancies shall from time to time occur among the bishops of England and Wales now sitting in Parliament.

2ndly, Because by this clause the writs of summons to Parliament to which the bishops of the ancient sees of England and Wales are by law entitled are to be suspended as each see shall become vacant, and as the right of the successive holders of such sees, to such writs of summons is as much inherent in their sees as that of the Lords Temporal in their respective peerages, the above-mentioned enactment constitutes a dangerous precedent, at variance with the principle of an hereditary peerage, and contrary to the privileges as well of the Lords Temporal as Spiritual.

John Thomas Freeman Mitford, Lord **Redesdale**.

Edward Geoffrey Smith Stanley, Lord **Stanley**.

Henry Philpotts, Bishop of **Exeter**.

John Stewart, Marquis of **Bute**.

Richard Bagot, Bishop of **Bath and Wells**.

John Henry Monk, Bishop of **Gloucester and Bristol**.

Archibald William Montgomerie, Lord **Ardrossan** (Earl of Eglinton).

## DCCCXXXI.

JULY 15, 1847.

By 10 and 11 Victoria, chap. 109, the Poor Law Commissioners, appointed under the original Poor Law Reform Act of 1835, were superseded by a President of the Poor Law Board and other officials, the old Board being extinguished by the seventh clause. The Act was carried by 33 to 10. The subjoined protest alludes to the unpopularity of the Commissioners, but in the debate on the Bill, high praise was given to Messrs. Nicholls and Chadwick.

1st, Because this Bill tends to subject to party influences, partialities, and animosities a branch of administration which, above all others, ought to be carefully kept free from them.

2ndly, Because a committee of the House of Commons having, after a long investigation, reported that 'the proceedings of the commissioners' appear in certain particulars to have 'been irregular and arbitrary, not in accordance with the statute under which they exercise their functions, and such as to shake public confidence in their administration of the law,' it seems more reasonable to suppose that any obloquy which may have attached to the law, or the administration of it, in other particulars, may have arisen rather from that administration and the fault of the administrators than from the provisions of the law itself, or the constitution of the commission.

3rdly, Because the influence of public clamour and the fear of misrepresentation on the one hand, and the desire of popularity on the other (which I believe to have led in a great degree to these irregular and arbitrary proceedings), are likely to act with greater force on a person necessarily connected with party, and constantly involved in political discussions, than on one carefully separated from both.

4thly, Because when such misconduct has been proved, or even charged, it seems more natural, more consistent with justice, and, above all, more likely to lead to a better administration of the law in future, that a searching investigation should take place before an impartial tribunal (as has been heretofore done in the case of the maladministration of other public boards) than that this Bill should be adopted, which, by providing for the entire and immediate removal of all persons connected with the commission, makes no discrimination between those who have honestly and

faithfully fulfilled their duties, and acted in the true spirit of the law, and those who by negligence, ignorance, or folly have violated both the letter and intention of it; and because the removal of them all indiscriminately, without proof of misconduct, or any compensation to those who have relinquished their professions and devoted themselves wholly to the business of the commission, is unjust to individuals, and is detrimental to the public interest, inasmuch as it discourages persons of talent from leaving their own pursuits in order to attend to the public service.

William Pleydell Bouverie, Earl of Radnor.  
William King Noel, Earl Lovelace.

## DCCCXXXII.

JULY 22, 1847.

The Poor Law Administration Bill, as it came from the Commons, provided that married paupers, who might be over sixty years of age, should not be compelled to live apart, as was obligatory for younger paupers. The Lords objected to this distinction and threw out the clause. It was resolved in the Commons to restore the clause, and the Lords acquiesced by 29 to 11.

The following protest was entered.

1st, Because this clause was unanimously rejected by the House when in committee on the Bill, the Lord who now moves its insertion stating that he had not a word to say for it; and because no new circumstance has since arisen to render it expedient, or to recommend it to the favour of the House.

2ndly, Because the reason alleged by the Commons for its restoration, viz. 'that poor persons above the age of sixty years are very generally relieved out of the House,' is not consistent with the fact, as it appears from a return presented to the House on the 28th of June last that in 368 unions of England and Wales, besides aged persons who are unmarried, there were 574 cases of aged married couples in their respective workhouses; and because the insertion of it is very likely to lead to a great increase of cases to which it will apply.

3rdly, Because if the reason alleged by the Commons were agreeable with the fact, it seems ridiculous to legislate for a case of rare occurrence.

4thly, Because it will be destructive of good order and regularity in workhouses.

5thly, Because experience shows that the parties themselves are not likely to take advantage of it *bond fide* and permanently, and this clause will take away the opportunity of testing whether they do so or not; and because it may, and probably will, be used as a method of annoyance in the House, or of extorting exorbitant relief out of it.

6thly, Because it is likely to aggravate any irritation which may be caused by the separation of younger couples.

7thly, Because the Legislature ought not to concern itself with such matters of detail; they should be left to the discretion of subordinate authorities in closer contact with the parties affected, more capable of forming a correct opinion of the necessities of each case as it may arise, and able, on their responsibility with respect to the whole matter committed to their care, to give effect to the general views of the Legislature.

William Pleydell Bouverie, Earl of Radnor.

## DCCCXXXIII.

APRIL 18, 1848.

On the 24th of February Louis Philippe fled from France, and most of the continental thrones were seriously threatened. The Irish physical force agitators were advising an appeal to violence, and on the 10th of April the Chartist petition was presented. As a measure of precaution, the Government introduced a Bill (11 and 12 Victoria, cap. 20) authorising the Secretary of State or the Lord Lieutenant of Ireland to order the departure of aliens. No opposition was offered in the Lords, the opponents of the Government only regretting that the clauses were not more stringent. In the Commons a small minority, including Mr. Cobden, Mr. Bright, Mr. Hume, Sir William Molesworth, and Dr. Bowring opposed the Bill, but it was carried by large majorities.

The following protest is against the third reading.

1st, Because the Bill is cruel, for even when not perverted to any improper purposes it may deter the victims of civil or religious persecution abroad from seeking refuge under the laws of a free country.

2ndly, Because the Bill is unjust; it exposes all resident aliens (such even as may have settled here in consequence of no such law existing at the time) to actual punishment without trial, and

it condemns even the most unsuspected among them to an evil greater than most punishments,—a dependence on the arbitrary will of one man.

3rdly, Because the Bill is unnecessary, there being no unusual resort of strangers to this Kingdom, and no proof afforded to Parliament that individual foreigners either possess the means or harbour the design of disturbing our internal tranquillity.

4thly, Because the Bill is unconstitutional; it creates a power liable to abuse, and unknown to our laws; and arbitrary authority has always been thought to degrade those who are the objects of it, and to corrupt those who possess it, and thereby lead to tyrannical maxims and practices, incompatible with the safety of a free people.

5thly, Because the Bill is impolitic; it discourages the employment of foreign capital, and the exercise of foreign ingenuity, in our country, and obviously tends to embroil us with the Governments of Europe, by rendering the residence of any obnoxious individuals amongst us an Act of the State, and no longer a consequence of the hospitable spirit of our municipal laws.

Henry Edward Fox, Lord Holland.

## DCCCXXXIV.

MAY 15, 1848.

A Bill was introduced into the House of Lords by Lord Stanley, the object of which was to continue Bills which had reached a certain stage, or which had passed one House, during another parliamentary Session. Money Bills were excluded from the operation of the Act. The Bill passed the Lords without difficulty, though several Peers remonstrated. In the Commons it was referred to a select committee, and was dropped.

The following protest was entered on the second reading.

1st, Because the usages and privileges of both Houses in regard to legislation are founded on prescription alone, and it is inexpedient and dangerous to disturb and weaken the security so long afforded to the free action of the three estates of this realm by our ancient Constitution, by introducing the new principle of regulating the legislative proceedings of the Lords and Commons by Act of Parliament.

2ndly, Because it may frequently happen, from a change in the position of political parties, or of circumstances, after prorogation, that either House may be induced to take a different view of any subject in the ensuing Session, and in fuller Houses, and by larger majorities, reverse the former decisions upon the same; particularly as the measures most likely to be subject to the operations of this Bill will be from among those introduced, or at all events taken into consideration, late in the preceding Session, with a moderate and decreasing attendance of members.

3rdly, Because, although the Bill will be no longer under the control of the House which shall have passed it in the preceding Session, that House cannot be precluded from condemning either the principle, or parts of it, by resolution or otherwise, or from introducing a different measure on the same subject, or from communicating such resolutions or sending up such Bill to the other House, or from desiring that the original Bill may be returned to them, or from addressing the Crown, as a last resource, to refuse its assent to the same if passed by the other House; from any of which proceedings the most disastrous consequences may be apprehended.

4thly, Because if the majority of either House should at any time, when such circumstances may occur, be actuated by strong party feelings under indiscreet guidance, this Bill might tempt them to pass even an imperfect measure without alteration, in order to prevent its enactments being again submitted to the deliberation of the other House and its avowed hostility.

5thly, Because any measure becoming law in spite of the opposition of one of the Houses thus legitimately expressed will never appear to the people to have obtained the ancient constitutional assent of the three estates of the Realm.

6thly, Because a disposition to refuse a ready obedience to any law so passed may be reasonably apprehended in times of strong political excitement.

7thly, Because it is no satisfactory answer to these objections to say that moderation and good sense must prevent their occurrence, since experience proves that when party spirit runs high, and men's passions are excited, good sense and moderation have been too frequently absent from both Houses of Parliament.

8thly, Because, when any differences shall arise in consequence

of the action of this Bill, it offers in itself a precedent and a temptation to remedy the same by further legislation; and as the necessity for the joint assent of the two Houses and of the Crown to any new law stands only on the same ground of long established usage as the abatement of all proceedings before Parliament by prorogation, the most dangerous consequences to the Constitution of this Kingdom, and to the privileges of this House especially, may be apprehended from any proposal to adopt the principle of controlling by Act of Parliament the ancient practice of Parliament in respect to legislation.

9thly, Because the habit of wasting time in idle discussions in the other House, which has led to the supposed necessity for this measure, is of comparatively recent origin, and being in its present excess discreditable, it is unwise to treat the abuse as likely to be permanent, and to encourage it by giving more time for its indulgence, without altogether interrupting public legislation.

John Thomas Freeman Mitford, Lord Redesdale.

## DCCCXXXV.

JUNE 2, 1848.

The following protest was entered against the third reading of the Parliamentary Proceedings Bill.

1st, Because the objections which I entertained to the principle of this Bill as originally introduced have been increased by some of the alterations made in it since it was read a second time.

2ndly, Because this House is and ought to be altogether independent of the Crown in all its proceedings upon Bills, and has, as a standing and perpetual record of this privilege, provided by its orders that at the commencement of every Session some Bill is to be read *pro forma* before the House proceeds to consider the matters for which the Crown has summoned Parliament as announced in the Speech from the Throne.

3rdly, Because to enact that the consent of the Crown must be first given before either House of Parliament can adjourn a Bill to a time which the law considers fit and expedient is contrary to the spirit of this standing order, and an unconstitutional abandon-

ment of this privilege, which is not justly called for by any of the provisions of this Bill, inasmuch as every Bill so adjourned will be, as far as the Crown is concerned, as much lost for the Session as if it had been thrown out or stopped by prorogation; and as it must be agreed to by both Houses in the ensuing Session before it can be presented for the royal assent, the adjournment cannot be held to prejudice or interfere with the Queen's prerogative in any way, unless the House is prepared to admit that the Crown has a right to determine the time which either House shall give to the consideration of a Bill before it passes it.

4thly, Because, although by this Bill the Crown does not abandon any control over legislation which it at present possesses, the House which shall have passed any adjourned Bill does waive its right to amend the same, however desirous it may be of doing so, in the ensuing Session, and is unquestionably the party most affected by such adjournment; and the authority which this Bill gives to two of the estates of the realm in a matter of legislation, to the exclusion of the third, and that the one most interested, is contrary to and subversive of the Constitution of this Kingdom.

5thly, Because, moreover, if the Crown should at any time be led to imagine that Bills so adjourned will differ in any point affecting the royal prerogative from those to be introduced and passed in the ensuing Session, it still retains the power of rendering all the proceedings on such adjourned Bills void, by proroguing Parliament after a five minutes' Session at any convenient period during the recess.

6thly, Because, although the objection stated in my protest against the second reading of this Bill, that under certain circumstances adjourned Bills would appear to have received the sanction of the Crown and one House of Parliament only, has been removed by the introduction of a clause by which the assent of the House which shall have passed any adjourned Bill is declared necessary for the passing of the same in the ensuing Session, this enactment is contrary to the principle on which the Bill is founded, and on which alone it can be supported, namely, that all the proceedings had and taken in the former Session on any Bill so adjourned shall be held to be as good and valid to all intents and purposes as if they had occurred in the then Session, and is moreover in itself contradictory and dangerous; contradictory in that while it



declares the renewed assent of the other House necessary to the principle and general object of the measure, on which there is comparatively small chance of a change of opinion, it deprives that House of the power of amending a single detail, on which a change of opinion is far more likely to have occurred ; and dangerous in that it introduces into the proceedings of Parliament for the first time, and by positive enactment, the unconstitutional principle that the assent of one of the Houses shall be given to a Bill by a single resolution only.

7thly, Because I consider this Bill unnecessary, as I have never yet known any well-conceived measure, prepared and brought in by persons who understood the subject-matter thereof, and who knew while drawing it what they wanted to secure by it, which did not, however numerous its enactments may have been, receive a ready, speedy, and efficient consideration and decision from both Houses of Parliament in the same Session in which it has been introduced.

8thly, Because I consider that the effect of this Bill will be to encourage the introduction at a late period of the Session of Bills hastily framed, as almost all are which are prepared during the sitting of Parliament, with the intention of passing them through one House only, in which they can generally then receive only a very imperfect consideration.

9thly, Because the other class of Bills most likely to be adjourned will be those which from being composed of numerous and ill-digested clauses have met with just delay in their progress through Parliament, which Bills ought always to be thrown out or to drop with the Session, in order that they may be re-introduced in the ensuing Session in an improved form, and with such amendments as the expression of public opinion upon the measure in the meantime may have suggested ; for, according to my experience, it is almost impossible to amend satisfactorily any Bill of considerable detail which has been originally carelessly and imperfectly prepared.

10thly, Because all the objects which it is proposed to obtain by this Bill may be as effectually and far more conveniently secured by resolutions and orders of the two Houses of Parliament, and particularly if the Commons could be induced to abate the undue extent to which they have been accustomed to carry their unquestionable and constitutional privilege of originating all measures of supply for the public service of the country, and would agree to

receive from this House public or private Bills which may contain rating or taxing clauses for the purposes of local or general improvement, whereby the transaction of business by both Houses would be greatly facilitated.

John Thomas Freeman Mitford, Lord **Redesdale**.

For the last reason, which of itself I consider quite sufficient to prove that the Bill is unnecessary and inexpedient.

John Campbell, Lord **Campbell**.

## DCCCXXXVI.

JUNE 9, 1848.

A Bill for registering Births, Deaths, and Marriages in Scotland was introduced into the Lords by Lord Campbell,—see Hansard, Third Series, vol. xcix, p. 567. The Bill passed the Lords, but was dropped in the Commons. The following protest was entered against the second reading.

1st, Because this Bill creates a cumbersome and expensive machinery to do that which may easily be accomplished by the means at present in existence.

2ndly, Because the greater part of the charge of this machinery is thrown upon the poor's rates, an impost which, for obvious reasons, should be kept exclusively for its legitimate object.

3rdly, Because this Bill enacts penalties upon persons for omitting to do that which in some instances it is physically impossible for them to accomplish.

4thly, Because the discretionary power lodged in the Registrar General of remitting penalties, though rendered necessary by some clauses in the Bill, is too arbitrary, and may lead to abuse.

5thly, Because the provisions of this Bill are likely to prove especially oppressive to the poorest classes in the more remote districts, who can scarcely be expected to derive any benefit from its provisions.

6thly, Because, though the advantage of obtaining a correct registry be admitted, this advantage may be too dearly purchased by subjecting all persons to so vexatious a system of regulations.

Dunbar James Douglas, Earl of **Selkirk**.

William Rollo, Lord **Rollo**.

Charles Murray Cathcart, Earl **Cathcart**.

## DCCCXXXVII.

JULY 20, 1848.

An Act for the amendment of the law of entail in Scotland was introduced into the House of Commons, and passed without any serious obstacle. In the Lords it also passed without a division. It is 11 and 12 Victoria, cap. 36. It contains 53 clauses.

The following protest was entered on the third reading.

1st, Because this Bill proceeds on a preamble in which an exaggerated view is stated of the evils produced to the community at large by the existing law of entail.

2ndly, Because, in order to remedy these evils, the second and third clauses of the Bill deal in an unprecedented manner, unwarranted by any real necessity, with the vested rights of heirs substitute and of heirs in remainder under existing entails even of the longest standing; whereas the real necessity of the case is sufficiently met by those provisions of the Bill which purport to give relief to the possessors of entailed estates from the pressure created under the Acts of the 10th George III, cap. 51, and the 5th George IV, cap. 87 (commonly called the Montgomery and Aberdeen Acts), and all risk of evil and inconvenience from the operation of the principle of perpetuity in future entails is sufficiently provided against by the first clause.

3rdly, Because of the hardship and injustice thus eventually inflicted, in some instances on near relations, and in other instances on persons not having a remote interest in the succession to entailed estates.

4thly, Because to sanction this very great change in the law of succession to landed property in Scotland, and this extensive invasion of the rights of parties having vested interests, without any adequate necessity, will hereafter form a dangerous precedent, and is inconsistent with the character this House has ever maintained as the guardian of such rights and interests.

Thomas Hamilton, Lord Melros (Earl of Haddington).

Dunbar James Douglas, Earl of Selkirk.

Walter Francis Montagu Douglas Scott, Earl of Doncaster  
(Duke of Buccleuch).

For the third reason, which appears to me to apply to the

provisions of this Bill, though not necessarily to an alteration of the law of entail in Scotland.

John Stuart Wortley, Lord Wharncliffe.

## DCCCXXXVIII.

JULY 31, 1848.

By the first draught of 11 and 12 Victoria, cap. 47, the landowner who evicted any poor in Ireland was obliged to give seven days' notice, before the writ of eviction was executed, to the relieving officer of the electoral district where the tenement should be situate, under a penalty of £20. The relieving officer was bound to assist the evicted person for not more than a month. Unroofing a dwelling was made a misdemeanour, and the Act was made to apply to Crown estates in Ireland. The Lords altered the notice to twelve hours *after*. The Commons disagreed, and put in forty-eight hours *before*, and to this the Lords assented.

The following protest was entered.

1st, Because, although the Commons have agreed to several very important amendments made by this House in the evicted Poor Bill, the enactment is continued which substitutes the name of the parish or barony, electoral division and townland, on which a writ of *habere* or decree is proposed to be served, for a list of the actual names of the persons who have been ejected, and not reinstated in their possession.

2ndly, Because, from the size of many of these denominations of lands, a notice of the names of the lands will fail to communicate to the relieving officers the information which they require in order to examine into the several cases of distress which may arise, and therefore to enable them to decide what relief should be granted.

3rdly, Because it appears more consonant with sound legislation to give a notice which will be intelligible and effectual, though necessarily given twelve hours after the eviction shall have taken place, than a notice, unintelligible and delusive, served forty-eight hours before such eviction.

4thly, Because, even if the relieving officers were enabled by a communication of the name of the lands to ascertain all the parties who were liable to eviction under the writ of *habere* or decree, this knowledge would be no sufficient guide in order to determine what parties may ultimately lose the possession of their houses or lands, and may thus be entitled to apply for relief.

5thly, Because, in all cases in which ejectments are brought for non-payment of rent, it is impracticable to ascertain beforehand whether at the latest moment the process may not abate by the payment of rent on behalf of the tenant.

6thly, Because, in many cases in which ejectments are brought for establishing title, the tenants, on giving up possession, are immediately after restored to their respective occupations, and in both cases notices will require to be served on the relieving officer when no claim for relief under this Bill can by possibility arise.

7thly, Because it is inexpedient and dangerous to sanction a general departure from the ordinary law and practice upon statements made *ex-parte* of special cases of alleged oppression, and, more especially, where the proposed change creates an important difference between the law of Ireland and that of other parts of the United Kingdom.

8thly, Because, whilst on these accounts the amendments made by the Commons are open to many serious incidental objections, the legitimate object of the Bill, namely, the relief of the really destitute evicted poor, will be made more uncertain and more difficult than if the Bill had continued in the form agreed to by this House, and thus it will be rendered less effectual for the purposes contemplated by the Legislature in its enactment.

Thomas Spring Rice, Lord Monteagle of Brandon.

DCCCXXXIX.

AUGUST 25, 1848.

An Act for the Protection and Improvement of Salmon, Trout, and other inland Fisheries in Ireland received the royal assent on the 25th of August (11 and 12 Victoria, cap. 92). It contains forty-three clauses. The fisheries are put under the management of conservators, annually elected by those who hold a fishing licence. The Act passed both Houses without a division.

The following protest was inserted.

1st, Because a Bill of this nature, dealing with various and conflicting rights, ought not to have been forced forward for the adoption of Parliament in the absence of nearly every peer connected with Ireland, and at a period when it is nearly impossible to give the subject due consideration.

2ndly, Because the Bill is founded on a principle, not only

unprecedented, but indefensible, oppressive, and discretionary, powers of taxation being vested, not in the owners of property, but in conservators chosen by persons who may for the most part possess no property whatsoever, and whose only qualification is the payment of a licence duty for the use of a fishing rod or net.

3rdly, Because a system of annual election by a constituency not required to possess a property qualification cannot fail to lead to confusion, mismanagement, and strife, when applied to the government of a district which like that of the Shannon may extend for several hundred miles.

4thly, Because the imposition of an annual licence duty leviable from the poorer class of fishermen, and exceeding the total value of the cots and nets employed by them, is grievous and oppressive, calculated to deprive many honest and industrious persons of their means of livelihood, at a time of unexampled distress, and which cannot fail to produce just discontent, leading to acts of violence and resistance to the law.

5thly, Because the imposition of an invariable tax on all Scotch weirs, without any reference to their relative value, is unjust and unequal, and will in many instances act as a prohibition against a mode of fishing which in Ireland as well as in Great Britain has been found profitable and productive, and which tax is a violation of all the rights of property.

6thly, Because the power of levying a tax of 10 per cent. on the rated value of any description of fishery is iniquitous and unjust, and is the less defensible at a period when Parliament has withheld its assent from an additional property tax of 2 per cent., though stated by responsible ministers to be required by the exigencies of the State.

7thly, Because the appointment by Act of Parliament of inspectors of fisheries, to hold the additional office of Commissioners, is inconsistent with all sound principles of administration, the same individuals being called on to discharge conflicting duties, to issue orders as Commissioners, to execute those orders as inspectors, and finally to decide and to report on the manner in which they have themselves executed their own ministerial duties.

8thly, Because it is not shown, or even suggested, that this extraordinary Bill has been sanctioned or recommended by the

Commissioners of Irish fisheries, the official functionaries appointed under a recent Statute to report annually to the Legislature and to Parliament on this subject.

9thly, Because on these grounds the Bill is unwise and unjust; oppressive to the poor, partial in its bearing on the more wealthy, destructive to industry, and inconsistent with the rights of property; and is therefore likely to create just feelings of discontent in Ireland, when that country is thus made the subject and the victim of a legislative experiment which could never have been proposed, much less carried, in relation to the analogous interests of Great Britain.

Thomas Spring Rice, Lord Monteagle of Brandon.

## DCCCXL.

MARCH 5, 1849.

A Bill providing certain alterations in the Scotch law of marriage was introduced in the Lords on the 6th of February, shortly after the Session commenced, Lord Campbell taking charge of the Bill on behalf of the Government. The object was at once to do away with Gretna Green marriages, by providing that Scotch marriages should be valid only when performed before a clergyman, or when contracted before a public officer. It was chiefly opposed by Lord Aberdeen. It passed the Lords without a division, but was nearly lost in the Commons on the 9th of July. The Government subsequently withdrew the Bill. The following protest was entered on the third reading.

1st, Because the object of the Bill has been regarded with general and long-continued disapprobation throughout Scotland; and it is impolitic, without urgent necessity, to outrage the feelings of the people in a matter by which their social condition may be deeply affected.

2ndly, Because it has not been shown that any evils exist in Scotland arising from the present state of the law of marriage sufficient to justify this proposed interference on the part of the Legislature.

3rdly, Because while the Bill professes to maintain the principle of the law of Scotland that marriage is a civil contract to be formed by a mutual consent deliberately given, it is inconsistent and unjust to declare that the most indisputable proof of such consent shall be of no avail without the formality of registration.

4thly, Because the Bill imposes restraints upon the marriages of the poor, which it is their natural right freely to contract, and, by subjecting the exercise of this right to such restraints, there is reason to fear that the measure will be attended with consequences injurious to their happiness and their morals.

George Gordon, Viscount Gordon (Earl of Aberdeen).

## DCCCXLI.

MAY 8, 1849.

Navigation laws, regulating the commerce between England and foreign countries, in favour of home-built vessels manned by British subjects, and having the indirect object of developing seamen for the navy, had been enacted from the time of Henry VII down to Charles II. The Queen's Speech (on the 1st of February) commended these laws to the attention of Parliament, and a Bill was brought in by the Government relaxing many of the restraints put on commerce. This was after some amendments ultimately passed, 12 and 13 Victoria, cap. 29. The second reading of the Bill was carried in the Lords by 173 to 163. See Hansard, Third Series, vol. cv, p. 1.

The following protest was inserted on this occasion.

1st, Because the Navigation Laws are founded in justice and sound policy, have been proved by long experience to be eminently beneficial, and are essential to the maritime superiority of this country, and therefore to its insular defence.

2ndly, Because the national defence, which is admitted to be imperfect, and which excites so much attention and anxiety, could not be effectually secured without encouraging the employment and protecting the rights of British seamen, and consequently without preserving in their full extent the principles of the Navigation Laws.

3rdly, Because national independence is of paramount importance, and ought not to be endangered from any considerations of pecuniary advantage which might be expected to arise from the proposed alteration of those laws.

4thly, Because any pecuniary advantage which might accrue to some classes of the community from the proposed measure would be attended with great loss to many other classes, with manifest injustice to them, and with incalculable injury to the national welfare.



5thly, Because the shipping interest, and all the various classes which are dependent upon it for support, would be grievously injured by the proposed measure, by which a large and most valuable portion of the British trade would be transferred to foreigners, whose ships are built, repaired, manned, and victualled at a much smaller expense than British vessels.

6thly, Because the proposed measure would also transfer to foreigners the employment which British workmen have hitherto found in shipbuilding, and would drive into the service of foreigners many British seamen, who by their skill and valour have always conferred inestimable benefits on this country, and are eminently entitled to its gratitude.

Philip Henry Stanhope, Earl Stanhope.

## DCCCXLII.

MAY 11, 1849.

A Bill was introduced by the Government for the purpose of giving further assistance to the destitute poor in certain Irish Unions, and ultimately became 12 and 13 Victoria, cap. 24. It was strongly opposed in the second reading, chiefly by the Irish Peers, and was carried by two votes only, 48 to 46. It had been previously debated in the Commons for four nights, and been carried by 193 to 138. See for the Lords' debate, Hansard, Third Series, vol. cv, p. 258; for the Commons', vol. ciii, p. 1308; vol. civ, p. 68.

The following protest was entered on the second reading.

1st, Because this Bill is not only inconsistent with the just principles on which a system for the relief of destitution ought in reason to be founded, but is also contrary to the recommendation of the Select Committee appointed to consider and to report on the question of the Irish Poor Law, contrary to the opinion of the witnesses examined, the greater number of whom have had experience in poor law administration, and are unbiassed by local ties or interests, contrary to the expressed judgment of a great majority of the representatives of Ireland in both Houses of Parliament, and to the petitions from various Irish counties, cities, grand juries, and boards of guardians presented to this House, and because it is also wholly unsupported by any English precedent, analogy, or experience.

2ndly, Because a general rate in aid must necessarily lessen the motives for administering local relief with the justice due to the poor, and the economy due to the rate-payers, being in this respect unfavourable to the success of the poor law, and to the character and industry of the people ; it is therefore unwise.

3rdly, Because a rate in aid cannot but act as a penalty on those owners and occupiers who have improved, and as a discouragement to those who are endeavouring to improve, their lands, thus checking the investment and diminishing the productiveness of capital, and lessening the demand for labour, in both cases interfering with the natural advancement of Irish interests and the prosperity of the labouring classes ; it is therefore inexpedient and oppressive.

4thly, Because a rate in aid must lessen the motives for self-reliance and individual exertion, thereby acting fatally on the character of the Irish people ; it is therefore objectionable on moral grounds.

5thly, Because a general rate in aid cannot be fairly levied according to one uniform percentage in a country where, as in Ireland, the valuation of property has been proved to be unequal ; it is therefore manifestly unjust.

6thly, Because it is proposed to confide its collection and appropriation to the discretion of public officers holding during pleasure, unconnected with the rate-payers either by election or responsibility ; it is therefore unconstitutional.

7thly, Because the estimate of the produce of the rate in aid laid before this House is founded on a valuation taken in many cases before the famine, and exceeding the present value of rateable property, and it cannot therefore be considered as evidence of the amount likely to be raised under this Bill ; it is therefore illusory.

8thly, Because the estimate includes, not only the still solvent parts of Ireland, but those districts where the local means are already exhausted, and where, consequently, the imposition of an additional burden by way of rate in aid becomes manifestly impracticable ; it is therefore irrational and deceptive.

9thly, Because the experience of the last year has proved that in twenty-one unions of Ireland out of the total number of 130, the excess of relief required exceeded by upwards of £269,000, the amount of rate collected, independently of funds provided for the support of children in schools by the British Association, and

the munificent charity administered by the Society of Friends and other public bodies and individuals, to which, if the debt due from those unions be now added, it would appear that even if the rate in aid could have been generally and successfully levied it would have been insufficient to meet the wants of the last year ; it will therefore be still more inadequate for the present when the destitution is greater and the local resources are less.

10thly, Because the enactment of a legislative measure which fails to answer the expectation of its framers, and which disappoints the hopes of the people in averting or greatly mitigating human suffering, tends to lessen the confidence which ought to be felt in the wisdom or good intentions of Parliament ; it is therefore impolitic.

11thly, Because the imposition of a tax capable of undefined extension in amount and prolongation in time, however guarded by the solemn and repeated declarations of the framers of the Bill against any increase beyond two and a half per cent., or any continuance beyond the period of two years, leads to uncertainty and distrust, affecting the value of all property and the cultivation of the soil ; it is therefore economically indefensible.

12thly, Because the enforcement of a rate in aid in those parts of Ireland where the poor law has hitherto been most successfully administered, and where the rates have hitherto been most cheerfully paid, may, on the judgment of intelligent and experienced witnesses, fail in its object of procuring funds for the relief of the distressed districts, whilst it operates injuriously in the more prosperous parts of Ireland, by disorganizing the present system of relief ; it is therefore inconsistent with a wise and enlightened humanity.

13thly, Because the passing of an Act which has never been proposed for England, contrary to all evidence, and to the expressed prayer of the petitions presented from Ireland, and contrary to the recorded judgment of the great majority of the Irish representatives in both Houses of Parliament, may be fatally wrested into an argument against the connexion between the two countries, and against the trust which ought to be placed in the impartiality and justice of the Imperial Legislature ; it is therefore dangerous to the stability of that union on which the safety of the British Empire depends.

14thly, Because the Bill has been not only undefended, but has been actually condemned in debate by its framers.

15thly, Because, without attempting to provide a remedy for the evils of pauperism, this Bill makes an insufficient provision for the support of paupers, and affords but a delusive security for any advances which may be made by the Treasury under the authority of its unwise and ill-considered provisions.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

John Edward Cornwallis Rous, Earl of **Stradbroke**, to all  
excepting for the sixth reason.

Richard Butler, Earl of **Glengall**.

George Charles Bingham, Earl of **Lucan**.

Albert Edward King, Viscount **Lorton**.

Richard Handcock, Lord **Castlemaine**.

George John Browne, Lord **Monteagle** (Marquis of Sligo).

George Montagu, Duke of **Manchester**.

William Parsons, Earl of **Rosse**.

Henry Robert Westenra, Lord **Rossmore**.

Stephen Moore, Earl of **Mount Cashell**.

Henry Francis Seymour Moore, Lord **Moore** (Marquis of  
Drogheda).

Eyre Massey, Lord **Clarina**.

## DCCCXLIII, DCCCXLIV.

MAY 18, 1849.

The third reading of the Irish Rate in Aid Bill was taken on this day. After debate (Hansard, Third Series, vol. cv, p. 638), the third reading was carried by 37 to 29, besides 29 pairs.

The following protests were entered.

1st, Because, when some of the local communities which have been constituted for the purpose of maintaining the poor become incapable of their functions, and are disabled by distress from performing the duties with which they have been charged, it appears to me that it is unjust to call upon other similar local communities entirely unconnected with them to take upon themselves the burden of maintaining the poor of those communities, in addition to their own, for whose maintenance they have been already rated, and whom they have already maintained.

2ndly, Because in such a case it is the duty of the great national community to supply the defect arising from the acknowledged incapacity of the local communities.

John Fitzgibbon, Lord Fitzgibbon (Earl of Clare).  
 Charles William Fitzwilliam, Earl Fitzwilliam.  
 William Parsons, Earl of Rosse.  
 Charles Marsham, Earl of Romney.  
 William Lennox Lascelles Fitzgerald De Ros, Lord De Ros.  
 Robert Jocelyn, Lord Clanbrassil (Earl of Roden).  
 George John Browne, Lord Monteagle (Marquis of Sligo)<sup>1</sup>.  
 Henry Francis Hepburne Scott, Lord Polwarth.  
 William Forward Howard, Earl of Wicklow.  
 Otway O'Connor Cuffe, Earl of Desart.

For this reason, in addition to the reasons assigned in the protest against the second reading of this Bill :

Because it appears, from the best sources of information at present available, that Ireland pays a larger percentage on her income to the Imperial Exchequer than Great Britain, while she sustains a much heavier proportional amount of local taxation.

The first proposition is thus proved :

The revenue of Great Britain (see Chancellor of the Exchequer's Speech, Ridgway, 1849, page 12), £250,000,000.

Gross income of Ireland, calculated by Mr. John Stewart, witness before Committees of Lords and Commons of Poor Law, under £20,000,000.

The revenue of Great Britain and Ireland is upon the average £52,000,000, and that sum divided in the proportion of 250 to 20, gives,

£47,000,000 as Great Britain's fair proportion ;

£4,160,000, as Ireland's fair proportion.

But Ireland actually has paid, first, her revenue collected in Ireland, £4,164,264, (see Parliamentary Paper, May 1844, No. 113, page 3, Average of Ten Years from 1835 to 1844, both inclusive,) a little above her fair proportion ; and, secondly, the duties on tea, tobacco, and other articles which have been consumed in Ireland, the duties having been previously collected in the ports of Great Britain instead of the Irish ports, also the tax on income drawn over to Great Britain, altogether amounting to a large sum. Unfortunately it seems impossible, with the data at present available, to form any but a very loose estimate of the amount. Some have guessed it at a

<sup>1</sup> Lord Monteagle signs as Marquis of Sligo, but he is entered on the Journals by his proper title in the House.

million ; others at more ; it may have been less. However, the amount, whatever it may have been, has all been paid in excess of Ireland's fair proportional contribution to the Imperial Exchequer. That Irish income, to a certain extent exempt from income and assessed taxes, should nevertheless have contributed a larger proportional amount to the Imperial Exchequer than English income, may at first sight appear strange ; but when it is recollected that the amount collected by indirect taxation does not depend solely on the amount of income taxed, the difficulty will disappear, and a slight consideration of the special circumstances will show that the result might have been *à priori* anticipated.

The second proposition, that Ireland is more heavily taxed for local purposes than England, is thus proved :

Rateable property of England . . . . .	£105,000,000
Local taxation . . . . .	12,000,000

(For both, see Chancellor of the Exchequer's  
Speech, Ridgway, 1849, pages 10, 11, 12),  
just 2s. 3½d. in the pound.

Rateable property of Ireland (reduced one-fourth, according to Mr. Griffith's evidence . . . . .)	<u>9,898,566</u>
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Local taxation of Ireland, poor rates expended 1848 . . . . .	1,855,841
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County cess, average of three years, deducting cost of police force . . . . .	1,142,302
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Repayment of relief expenses for ten years, each year . . . . .	<u>272,821</u>
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3,270,964

If to this we add repayment of relief expenses under the Burgoyne Commission, one year . . . . .	<u>953,351</u>
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4,224,315

just 8s. 4d. in the pound, or nearly four times the local taxation of England.

As the expenses of the Burgoyne Commission have only been paid in due course in districts where the pressure was not very severe, and practically the repayment will be extended in other districts over two or more years, some little deduction

should be made on that account, and therefore we may take the local taxation of Ireland at 8s.

There seems to be no reason to doubt that the estimates of the Chancellor of the Exchequer and Mr. Stewart are correct, within very narrow limits, and, under such circumstances, to have made Ireland a separate area of taxation, and to have imposed an additional tax which, by further diminishing employment, will augment the severe privations under which the labourers and tradesmen even in many of the more favoured districts of Ireland are rapidly sinking, appears to be unjust.

William Parsons, Earl of Rosse.

## DCCCXLV, DCCCXLVI.

JUNE 12, 1849.

The following protests were entered against the third reading of the Navigation Bill. The debate may be found in Hansard, Third Series, vol. cvi, p. 111. An attempt was made by the Bishop of Oxford (Wilberforce) to introduce a clause excluding Spain and Brazil from the Act, in consequence of their connection with the slave trade. This amendment was negatived by 23 to 9. The second protest is Lord Stanley's (the late Earl of Derby).

1st, Because England's extensive mercantile marine is the best nursery for British sailors, and is the foundation of England's proud dominion over the seas.

2ndly, Because this measure, by giving a direct encouragement to foreign sailors, to foreign shipwrights, and to foreign shipping, will speedily lead to the loss of that dominion.

3rdly, Because England's present naval superiority is her best security against foreign foes; that this rash and reckless measure, which reaches the climax of free trade, which at this time is bringing ruin upon all the great interests of this Empire, will undoubtedly destroy that naval superiority, and must be regarded by all rational men as an act of national insanity and of national suicide.

George William Finch Hatton, Earl of Winchilsea and Nottingham.

1st, Because the Bill, while professing to amend the laws for the encouragement of British shipping and navigation, virtually repeals those laws under the protection of which the mercantile marine of this country has attained its present eminence.

2ndly, Because such repeal was not called for by any State necessity nor by public opinion, which, on the contrary, has manifested itself universally and unequivocally as hostile to the measure.

3rdly, Because any minor inconveniences to which British commerce may be subjected by the operation of the existing laws might easily have been obviated by modifications and amendments not inconsistent with the maintenance of their general principle.

4thly, Because the Bill fails to secure to the shipping and commerce of this country in foreign ports advantages equivalent to those which it confers upon the shipping of foreign countries.

5thly, Because it surrenders gratuitously, and without any possible equivalent, to all foreign countries, the trade between the United Kingdom and its widely spread colonies and dependencies, in which trade a very large proportion of our shipping and seamen is constantly and profitably employed.

6thly, Because by the concession of the indirect carrying trade between the United Kingdom and all foreign ports, any one nation which may be able to rival us in building, manning, and sailing ships, will be enabled to enter into successful competition with us throughout the world, and thus lay the foundation of a maritime superiority which it is essential to this country to retain, and which it was the especial object of the Navigation Laws to prevent any foreign powers from acquiring.

7thly, Because the Bill directly encourages the competition of foreign labour, and tends to diminish the demand for British seamen, British shipwrights, mechanics, and artisans, unduly to lower the amount of their wages, and greatly to discourage the employment of British industry.

8thly, Because the permission to register as British, ships built in foreign ports, will inevitably lead to a great transfer of capital to those foreign ports, and to the infliction of serious injury upon the ship-building establishments of this country, and the various branches of industry connected therewith, by which, in time of peace, employment is given to large numbers of our fellow subjects, and the assistance of which, in time of war, has been found indis-



pensable to the maintenance of the strength and efficiency of the royal navy.

9thly, Because the Bill, by exposing British ship-owners to unlimited competition with those of foreign countries, while it leaves them subject to restrictions from which their rivals are exempt, holds out strong inducements to them to sail under a foreign flag, with foreign-built ships, and foreign seamen, to the manifest injury of the best interests of the country.

10thly, Because the royal navy is mainly dependent for its efficiency upon the commercial marine and the classes of the community connected therewith; and this Bill, by discouraging the employment of British ship-builders, ships, and seamen, tends directly to the reduction of the commercial marine, and thereby to the diminution of that naval strength which is the main foundation of the greatness of this country and the surest defence of its independence.

Edward Geoffrey Smith Stanley, Lord **Stanley**.

Stapleton Cotton, Viscount **Combermere**.

William Duncombe, Earl of **Feversham**.

George William Finch Hatton, Earl of **Winchelsea and Nottingham**.

Percy Clinton Sydney Smith, Lord **Penshurst** (Viscount **Strangford**).

Henry Richard Greville, Earl **Brooke and Warwick**.

Edward Bootle Wilbraham, Lord **Skelmersdale**.

Alexander George Fraser, Lord **Saltoun**.

James Brownlow William Gascoyne Cecil, Marquis of **Salisbury**.

George Kenyon, Lord **Kenyon**.

John Thomas Freeman Mitford, Lord **Redesdale**.

Archibald William Montgomerie, Lord **Ardrossan** (Earl of **Eglinton**).

Thomas Robert Drummond Hay, Lord **Hay** (Earl of **Kinnoul**).

Charles Abbot, Lord **Colchester**.

John Edward Cornwallis Rous, Earl of **Stradbroke**.

Otway O'Connor Cuffe, Earl of **Desart**.

Richard Plantagenet Temple Nugent Brydges Chandos Grenville, Duke of **Buckingham and Chandos**.

Charles Augustus Bennet, Earl of **Tankerville**.

Henry Pelham Clinton, Duke of **Newcastle**.

Philip Charles Sidney, Lord **De Lisle and Dudley**.

Horatio Nelson, Earl **Nelson**.

George John Milles, Lord **Sondes**.

Henry Francis Seymour Moore, Lord **Moore** (Marquis of **Drogheda**).

Edward Law, Earl of **Ellenborough**.

Richard Butler, Earl of Glengall.  
William David Murray, Earl of Mansfield.  
George Gordon, Lord Meldrum (Earl of Aboyne).  
Henry Maxwell, Lord Farnham.  
James Howard Harris, Earl of Malmesbury.  
Henry John Chetwynd Talbot, Earl Talbot.  
George William Richard Fermor, Earl of Pomfret.  
Thomas Egerton, Earl of Wilton.  
James Thomas Brudenell, Earl of Cardigan.  
Henry Vane, Duke of Cleveland.  
Henry Somerset, Duke of Beaufort.  
James Bernard, Earl of Bandon.  
George Augustus Frederic Charles Holroyd, Lord Sheffield  
(Earl of Sheffield).  
John George Weld Forester, Lord Forester.  
William Legge, Earl of Dartmouth.  
Henry Hall Gage, Lord Gage (Viscount Gage).  
Henry William Poulett, Lord Bayning.  
Brownlow Cecil, Marquis of Exeter.  
Charles Fitzroy, Lord Southampton.

## DCCCXLVII.

JUNE 10, 1850.

By 13 and 14 Victoria, cap. 59, new constitutions were given to the Australian Colonies. During the passage of the Bill in the House of Lords, Messrs. Scott and Lowe, the former apparently acting as agent for the Colony, and the latter subsequently a well-known member of the English Parliament, petitioned against the Bill, and prayed to be heard by counsel. A motion founded on the petition, to the effect that counsel should be heard, was rejected by 33 to 25, and a proposal of the Bishop of Oxford to refer the Bill to a Select Committee, by 34 to 21. See *Hansard*, Third Series, vol. cxi, p. 943.

The following protest was entered.

1st, Because it is unjust to refuse hearing petitioners who allege that they are deeply interested by property and otherwise in the Australian Colonies, and that they will be greatly prejudiced by the provisions of the Bill now before the House, should it pass into a law in its present shape.

2ndly, Because this refusal to hear counsel is contrary to precedents laid down by the House in analogous cases, more especially on the 5th of February, 1838, when the agent of the Assembly of Lower Canada was heard against the Canada Government Bill, and on the 28th of June, 1839, when the agent for

Jamaica, as well as counsel for private petitioners, were heard against the Jamaica Bill.

3rdly, Because this refusal to hear petitioners who, from former residence in Australia, from the possession of property there, and from the political functions with which they have been entrusted, have a claim to be heard, is peculiarly injurious in a case like the present, where a Bill is under consideration containing enactments not defended on their own merits, but by an assertion of the state of feeling in the Colony, and of the degree of acceptance which those enactments have received.

4thly, Because it is salutary and most politic at all times, and more especially in cases where the interests of great and distant Colonial communities are involved, to prove, by the course adopted in Parliament, that this House acts with wise caution and consideration, and will be ready to receive all information that is tendered on behalf of those subjects of her Majesty who, though not directly represented in the Imperial Legislature, are entitled to claim our sympathy and our protection.

5thly, Because we are fearful that this refusal to hear the petitioners, and the rash and precipitate prosecution of this Bill in the absence of the information tendered, but rejected, cannot but produce local discontent, and may suggest an inference that the Imperial Parliament is careless or indifferent in respect to a measure on which depends the future well-being of the Australian Colonies, and the establishment of a legislature founded upon those constitutional principles which have been found in the mother country the best securities to liberty and to order.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

John Wodehouse, Lord **Wodehouse**.

George William Fox **Kinnaird**, Lord **Kinnaird and Rossie**.

## DCCCXLVIII.

JUNE 25, 1850.

By a charter of John<sup>1</sup>, the shrievalty of Westmoreland was granted to Robert de Veteripont or Vipont. It had descended to the Tuftons by the marriage of an Earl of Thanet with the heiress of the Cliffords,

<sup>1</sup> The charter may be found in Hardy's Patent Rolls, p. 27. It is dated the 31st of March, 1203 at Rouen. The grant is '*quamdiu nobis placuerit*.'

Earls of Cumberland. The earldom of Thanet became extinct in June 1849, and a temporary Act was at once passed (12 and 13 Victoria, cap. 42), to meet the immediate emergency. But Lord Thanet had devised the shrievalty to a remote kinsman, and as it was doubtful whether such a devise was valid, a further Bill (13 and 14 Victoria, cap. 30), was carried vesting the office in the Crown.

The following protest was entered.

Because in the Preamble of this Bill it is stated that the hereditary office of High Sheriff of Westmoreland granted by King John to Robert de Veteripont and his heirs descended to Henry Earl of Thanet lately deceased, and was exercised and enjoyed by him at the time of his death, descendible to his heirs; and that the said Henry devised the said office by will to Richard Tufton, with divers remainders over; and that doubts have arisen whether the said office passed by such devise, or whether on the death of the said Earl of Thanet it became vested in his heir or heiress at law, or whether it escheated to the Crown; and the Bill proceeds summarily to determine these doubts and to vest the said office forthwith and for ever in her Majesty, her heirs and successors.

Because thus to deprive a subject of a very honourable and high office, held by inheritance during a period of between six and seven hundred years, without consent obtained, or capable of being obtained until the said doubts shall have been determined, and without even providing any recompence for the same, is unjust, contrary to all precedent, dangerous to the rights of all property and especially to the tenure of offices of honour and titles.

Because the right course would be to extend the provisions of the Act passed in the last Session of Parliament which enabled her Majesty to appoint a High Sheriff of Westmoreland for a year in order to afford time for the aforesaid doubts and rights to be settled and ascertained, and that her Majesty, her heirs and successors, should be empowered to appoint to the said office until such doubts and rights shall have been lawfully determined.

John Thomas Freeman Mitford, Lord Redesdale.

## DCCCXLIX.

JULY 19, 1850.

Some parts of the Factory Act of 1847 were found to be defective or unworkable. Hence the Government introduced a Bill to cover these defects. As the Bill passed through committee, the Duke of Richmond moved certain words, the effect of which would be to make the Act a Ten Hours Bill. This was rejected by 52 to 30. On the 19th of June, when the Bill came up for third reading the Duke moved its rejection, but did not press his motion to a division.

The following protest was inserted.

Because the Ten Hours Act provides no further limitation of the hours of labour of women and young persons in factories than that which custom has assigned as the fair limit of the working man's labour throughout this Kingdom.

Because the proposal for a Ten Hours Act has been the subject of parliamentary inquiry for the last thirty years; and because the Parliament, after passing divers Acts to limit the hours of labour in factories, declared to her Majesty in person, in the year 1847, that it had been found necessary to the social condition of females and young persons engaged in factories to adopt the limit contained in the Act of that year known as the Ten Hours Act.

Because the Ten Hours Act has been found in practice to have produced the effects that the Parliament anticipated and intended, inasmuch as it is declared by the clergy, the medical profession, and a large part of the masters, that it has promoted the morality, the health, and the social improvement of the factory hands; and because it is impolitic in the highest degree to tamper with an enactment that has already produced consequences so beneficial.

Because the spirit of the Ten Hours Act having been infringed by a few masters, owing to an unintentional omission of words in the Factory Act of 1844, the factory hands had a right to call upon the Legislature to amend its own error, and give them an Act not open to evasion; and because it is inconsistent with the honour of Parliament to answer that call by depriving the applicants, as the Bill does, of a part of that valuable time that was avowedly intended to be secured to them for their own use by the Ten Hours Act.

Charles Lennox, Duke of Richmond.

## DCCCL.

AUGUST 5, 1850.

A motion was made in the Lords, 'that an humble address be presented to her Majesty, to request that her Majesty would be graciously pleased to order that there be laid before this House a return of how much of the £38,000 and upwards, savings on the Civil List for the year ending the 5th of April, 1850, arises from the salaries, pensions, and allowances.' The motion was negatived. There is no account of motion, debate, or protest on the subject in Hansard. The motion is closely like that which was made more than twenty years afterwards in the Commons by Sir Charles Dilke. For Lord Brougham's opinions on the general question, see his *British Constitution*, chap. xvii, *ad finem*.

The following protest was inserted.

1st, Because the Civil List arrangement is framed upon statements laid before Parliament with the full knowledge of the Ministers of the Crown, those statements being in the nature of estimates upon which the grant of income is to be made.

2ndly, Because those statements contain a minute detail of the expenses for which provision is made, including the salaries of officers and even the wages of servants, and the grant is made on the supposition by all parties to the arrangement that such salaries are to be always paid.

3rdly, Because, even as to the other heads of expenditure provided for, there is an understanding of all parties that nearly the same sums will be required during the continuance of the arrangement.

4thly, Because no supposition ever entered the mind of Parliament in making the grant that large savings were to be effected out of the income granted; and, on the contrary, the accumulation of wealth in the hands of that sovereign is wholly alien to the spirit of our Constitution, which requires the monarch to be dependent upon Parliament for the Revenue by which his State and dignity shall be supported.

5thly, Because any such accumulation by means of savings upon the Civil List has a direct tendency to diminish the splendour and impair the dignity of the Crown, and so to defeat the very purposes of the grant.

6thly, Because for these reasons it is the undoubted right of Parliament to obtain information from time to time touching the amount of the savings under the several heads of the Civil List expenditure, and the rather because if there were a deficit instead

of a saving, Parliament would be of course applied to for aid, whereas the public never can directly benefit by any surplus, how considerable soever.

7thly, Because the amount of such savings must form an important matter in considering the applications from time to time made for parliamentary aid in the establishment of the younger branches of the royal family during the reign of the sovereign, to whom the grant of the Civil List income was made, as well as in future arrangements which the wisdom of Parliament may make with respect to the rights and claims of the Crown.

8thly, Because no possible risk to the subsistence of the Civil List arrangement made with the sovereign at the commencement of the present reign can arise from giving the information sought, and there can be no indelicacy in disclosing the amount of the savings supposed on good ground to have been effected, inasmuch as those savings must by law be made known to departments of the Government which are under no obligation to conceal them, and it must be made known under which head of the Civil List expenditure the saving, if any, has been made, or the deficiency, if any, has arisen.

9thly, Because the accounts before Parliament appear to state the amount of the savings; for example, £38,750 for the year ending 5th of April, 1850; and if this is an incorrect statement, or if in reality the statement bears reference to some other matter than that which it seems to regard, justice to all parties requires that this should be explained and set right; but if, as appears, such savings have been effected, there can be no reason why Parliament should not be informed of the branches of expenditure on which they have been so effected.

10thly, Because it appears, that independent of the Civil List revenue, and of £12,000 paid last year into the privy purse from the revenue of the Duchy of Lancaster, £29,000 have been paid from the revenues of the Duchy of Cornwall for the service of the Duke of Cornwall, a service which at that illustrious prince's tender age can hardly require so large a provision, and no one has ever contended that into such an expenditure Parliament has not both the right fully to inquire and the practice of so inquiring.

Henry Brougham, Lord Brougham and Vaux.

## DCCCLI, DCCCLII.

AUGUST 6; 1850.

The Parliamentary Voters Bill (Ireland), is 13 and 14 Victoria, cap. 69. The Lords had made amendments in the Bill, some of which the Commons had retained, others they had struck out. Two of these were—the Bill as it came originally to the Lords required an £8 qualification, which the Lords altered to £15; and the system of registration was in the original Bill automatus, which had been altered to one of claim and application. The Commons conceded a franchise of £12, and insisted on the self-registration principle. Lord Stanley moved that the Lords insist on their amendments, but was defeated by 126 to 115.

The following protests were entered against concession.

Because a rate of qualification fixed at £12 will extend the franchise to a large number of persons unqualified for a beneficial exercise of that privilege, and cannot fail to subvert the legitimate influences of property in elections, and render the power of the Roman Catholic clergy paramount and irresistible.

Otway O'Connor Cuffe, Earl of Desart.  
William Willoughby Cole, Lord Grinstead (Earl of Enniskillen).  
Stephen Moore, Earl of Mount Cashell.  
Richard Butler, Earl of Glengall.

1st, Because the self-acting registration will be productive of great and serious evils, by forcing a large number of persons from the neutrality in which they had sought an escape from political agitation, and by exposing them to influences which they have not yet acquired courage to resist.

2ndly, Because, requiring a claim to be made in some instances and dispensing with it in others, the action of the provisions relating to this subject will be unequal and unjust.

Otway O'Connor Cuffe, Earl of Desart.  
William Willoughby Cole, Lord Grinstead (Earl of Enniskillen).  
Stephen Moore, Earl of Mount Cashell.  
Richard Butler, Earl of Glengall.

## DCCCLIII.

AUGUST 12, 1850.

The Act 13 and 14 Victoria, cap. 102, consolidated a number of Acts relating to offences in which magistrates have a summary jurisdiction in Ireland. The Act gave powers to act to a single justice. This was



objected to, and an amendment, requiring the presence of two justices at least, was proposed. This was negatived, and the following protest was inserted.

Because it is contrary to the spirit of the law and constitution that offences which till within a very recent period could only be tried before a jury, and sentences of corporal punishment, imprisonment, and fine, which could only be pronounced by a regularly constituted Court, should be brought by a perpetual enactment, and enforced throughout all Ireland, under the jurisdiction of a single justice of the peace.

2ndly, Because this change in the law renders offences punishable by a single justice in Ireland, which in England cannot be disposed of except by a bench of magistrates, and that such irreconcilable enactments, where the rights and liberties of the people are concerned, are little calculated to strengthen the administration of the law and the union between the two countries.

3rdly, Because it is to be feared that in many cases this enactment will tend to render the attendance of magistrates at petty sessions less constant and regular than at present, and also to intrust the magisterial functions of this Bill to the stipendiary officers of the Crown, a result unconstitutional in itself and dangerous to the national character, which depends on the performance of duty, public as well as private, for its development and its improvement.

4thly, Because, although this extension of summary judicial power to magistrates acting singly may be necessary in certain districts where ruin and misery have been produced by the recurrence of famine during the last five years, and where these evils have been increased and prolonged by impolitic laws, passed against all sound principle and persevered in against all experience, no justification or excuse is thus afforded for a perpetual and general enactment extending over all Ireland.

5thly, Because it is the duty of the Legislature, in providing for those exceptional cases where the number of magistrates has become insufficient in consequence of national calamities and improvident legislation, to limit the operation of the first section of the Act to such parts of Ireland only, and to such a period, as render this deviation from the true principles of judicial administration necessary and therefore justifiable.

6thly, Because it is always dangerous and often fatal to abandon the sound principles of the law and of the Constitution in order to meet a pressing and local emergency, which is the only motive that can be suggested for the enactment of the first section of this Bill.

Thomas Spring Rice, Lord **Monteagle of Brandon**.  
Stephen Moore, Earl of **Mount Cashell**.

## DCCCLIV.

JULY 22, 1851.

The Pope's Bull, creating a number of sees in England, was issued on the 24th of September, 1850. On the 4th of October, Lord John Russell wrote his celebrated Durham Letter. Parliament was opened on the 4th of February, and allusion was made to the facts in the Queen's Speech. In consequence a Bill was introduced, and though opposed at every stage, was carried by large majorities in the Commons. It inflicted a penalty of £100 on offenders, if the consent of the English or Irish Attorney-General, or the Scotch Lord Advocate, allowed the prosecution. The Act was a dead letter, and was repealed in 1871 (34 and 35 Victoria, cap. 53), after an unsuccessful attempt in 1870. The second reading was taken on the 21st of July (Hansard, Third Series, vol. cxviii, p. 1063), and carried on the 22nd of July, by 265 to 26, the Earl of Aberdeen leading the opposition. The Act is 14 and 15 Victoria, cap. 60. Lord Winchilsea did not vote with the majority.

1st, Because this Bill, which is confined to a paltry penalty of pounds, shillings, and pence, is utterly unworthy of the magnitude of the wrong which it professes to redress.

2ndly, Because the insult which has been offered to our sovereign, and to the religious feeling of this great Protestant people, called for the immediate withdrawal of the insolent Papal Bull which conveyed the outrage, and for the banishment from our shores of all who had assumed titles and dignities in this country conferred by a foreign power.

3rdly, Because a Bill which embraces neither of these two points is utterly useless, and will bitterly disappoint and justly exasperate the great Protestant feeling of this country, which has shown itself so strongly through the length and breadth of the land, in a manner which entitled it to a far greater consideration than that which it has met with at the hands of the Legislature.

George William Finch Hatton, Earl of **Winchilsea and Nottingham**.

## DCCCLV.

JULY 25, 1851.

The Ecclesiastical Titles Act passed through Committee on this day. Various amendments are proposed, as to exclude Ireland from the operation of the Bill, and to include Scotland, with a view of prohibiting the assumption of territorial titles by the Scotch Episcopal Church ; but all were negatived.

The following protest was entered.

1st, Because, whilst ready to uphold and to defend the rights and prerogative of our most gracious Sovereign, and the honour and the independence of our country against all aggression, we do not feel ourselves justified in supporting a Bill which trenches on that religious freedom which her Majesty has been pleased to assure us 'it is her desire and firm determination, under God's blessing, to maintain unimpaired,' which it has been the object of the Legislature during the last sixty years to extend and to secure, and which now happily forms a fundamental part of our Constitution, and is inseparably bound up with our civil liberties.

2ndly, Because it is irreconcilable with the spirit and with the letter of the Roman Catholic Relief Act, to impose new and to increase existing penalties, falling exclusively on the members of one religious communion ; and our objection to this fatal course is augmented when it is announced that this Bill may lead to other measures of a similar character, in case the stringency of its provisions is not found sufficient to answer the purposes of its framers.

3rdly, Because we view with alarm the declaratory enactments of this Bill, undefined as they are, in their legal consequences, rendering solemn antecedent Acts and public instruments unlawful and void, and rendering unlawful and void, likewise, all the 'jurisdiction, authority, pre-eminence, or title,' derived from such Acts and instruments.

4thly, Because these alarms are increased from the want of any clear definition in this Bill fixing the incidence and the limits of its penalties, thus creating all the dangers which must ever attend vague and uncertain laws, exposing the Roman Catholic laity to wrong and privation, interfering with the jurisdiction and ecclesiastical functions of the Roman Catholic clergy, and leaving it a

matter of grave doubt whether both parties may not be exposed to criminal prosecution as well as to civil penalty.

5thly, Because it is irreconcilable with the wise policy of late years, shown in the repeal of barbarous penalties contained in ancient and intolerant laws, to revive and give robustness and energy to a severe penal Statute, passed nearly 500 years back, enforced only once since its enactment, and that in the year 1607, in a case which we are informed is of doubtful authority.

6thly, Because we cannot reconcile the Charitable Bequests Act, which recognises the status and existence of Roman Catholic archbishops and bishops and their successors, officiating and exercising episcopal functions in Ireland, with this Bill, which interferes directly with the appointment of such archbishops and bishops, and declares the official instruments and official acts required for such appointments, as well as 'all jurisdiction, authority, pre-eminence, or title' derived therefrom, to be unlawful and void; nor is this difficulty removed by the saving clause, which leaves it doubtful whether the fourth section may not defeat other portions of the Bill, or whether the general import of the Bill may not deprive that saving clause of its efficacy.

7thly, Because it seems illogical, inexpedient, and unjust, when the Rescript or Letters Apostolical of the Pope, of the 29th of September, 1850, are relied on as the cause and justification of this Bill, that we should extend its restraints to a part of her Majesty's dominions to which that Rescript has not any possible application.

8thly, Because it has been admitted in debate, on high legal authority, that the penalties of this Bill are limited to what are described as being 'pretended sees,' whilst other sees or districts are subjected only to the less severe provisions of the 10th George IV, cap. 7. It therefore follows that a different state of law will exist in England and in Ireland, as well as in different parts of Ireland, producing anomalies and contradictions incompatible with sound legislation, the severity of the law and its penalties not varying according to the nature of the imputed offence, but according to the geographical limits within which such imputed offence may have been committed.

9thly, Because, if it should be true, as has been stated in debate by the supporters of this Bill, that if it becomes a law it cannot be carried into effect, but must remain 'a dead letter,' we consider

that it is still more inconsistent with sound legislation to pass a Bill which, without giving any security whatever, tampers with all the principles of religious freedom, creates discontent and alarm, and by bringing the law into contempt lessens its force and rightful authority.

10thly, Because a determined resistance has been offered to all suggestions made during the progress of the Bill for the correction even of obvious and verbal errors, as well as for the amendment of certain provisions of which no justification has been attempted; and because the reason assigned for taking this course, arising from the possible inconvenience and delay apprehended if this Bill were returned to the House of Commons, is inconsistent with the free deliberations of this House, and derogatory to its just rights and authority as a branch of the Legislature.

11thly, Because, upon these grounds, we cannot but consider the passing of this Bill to be most inexpedient and most unjust. We consider it ill-adapted to protect either the prerogative of the Crown or the independence of our country, whilst calculated to revive civil strife and sectarian dissensions; we protest against it likewise as a departure from those high principles of religious liberty to which our greatest statesmen have devoted their intellect, their genius, and their noblest exertions.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

George Charles Mostyn, Lord **Vaux of Harrowden**.

Thomas Alexander Fraser, Lord **Lovat**.

Thomas Stonor, Lord **Camoys**.

George John Browne, Lord **Monteagle (Marquis of Sligo)**.

George William Fox Kinnaird, Lord **Kinnaird and Rossie**.

Arthur James Plunkett, Earl of **Fingall**.

Francis William Caulfield, Lord **Charlemont (Earl of Charlemont)**.

Nathaniel Clements, Lord **Clements (Earl of Leitrim)**<sup>1</sup>.

William Bernard Petre, Lord **Petre**.

John Evelyn Pierrepont Dormer, Lord **Dormer**.

Charles Stourton, Lord **Stourton**.

Henry Benedict Arundell, Lord **Arundell of Wardour**.

<sup>1</sup> Lord Clements is entered under his proper title in the Journals. He signs as Earl of Leitrim.

## DCCCCLVI.

JULY 28, 1851.

The market in Smithfield had long been a dangerous nuisance, and its removal was imperatively demanded long before legislation was attempted. In 1851, however, an Act was passed (14 and 15 Victoria, cap. 61), constituting a Metropolitan Cattle Market Commission, which was to erect a new market. The following protest expresses some of the objections taken on the report of the Select Committee. (See *Hansard*, Third Series, vol. cxviii, p. 1562.)

1st, Because, when the House in 1835 put questions to the judges as to the legal rights and claims of the city in regard to this market, and the manner in which its insufficiency in point of size, and the advantage which the public would derive from more extended accommodation being provided elsewhere, might be held to affect or supersede the same, they answered,—

‘That the benefit of the public requiring a new market to be holden other than markets already holden would not of itself warrant the grant of a new market :

‘That if a market by the terms of the grant is held in a place defined or known by metes and bounds, and those limits are not sufficient for the accommodation of buyers and sellers, and the owner has no power to enlarge those limits, that circumstance, coupled with the fact that it would be for the advantage of the public that a new market should be erected, would be a sufficient ground for the Crown to take such steps as, according to law, would have the effect of erecting a new market to such an extent as would remedy the inconvenience without affecting the rights of the owners of the old market ; but that, whatever proceedings are taken, the new market can only be legally granted to such an extent as to provide for what may be called the surplus accommodation of the public beyond what the old market can afford, and that the old market is not to be affected by the new market. For instance,’ (said the judges,) ‘if the public require twenty acres of market accommodation, and the old market could only furnish ten acres, the new market could not be granted for the whole twenty acres, but only for the additional ten acres.’

2ndly, Because, by the opinions of the judges so given, the right of the citizens to retain their market at Smithfield, although the

interests of the public may require that additional accommodation in a new market should be granted elsewhere, is clearly established, and consequently their claim to compensation for the loss to be sustained by its forced removal is indisputable.

3rdly, Because the permission to undertake the formation of the new market at an estimated cost of £200,000, while the net income of the present market is only about £5,000 a year, is justly rejected by the Corporation as compensation, and considered by them rather as a dangerous speculation.

4thly, Because the compensation proposed to be given by the clauses inserted in committee was moderate in amount, and in strict accordance with that already sanctioned by Parliament in 1835, in the Islington Market Bill.

5thly, Because in rejecting these clauses the House has departed from the sound and just principle which it has hitherto strictly observed, that full compensation is due in all cases to the owners of property compulsorily surrendered for the public benefit.

John Thomas Freeman Mitford, Lord Redesdale.

James Brownlow William Gascoyne Cecil, Marquis of Salisbury.

William Willoughby Cole, Lord Grinstead (Earl of Enniskillen).

James Thomas O'Brien, Bishop of Ossory and Ferns.

Edward James Herbert, Earl of Powis.

## DCCCLVII.

JULY 29, 1851.

The Ecclesiastical Titles Bill was read a third time and passed on this day. See, for the debate, Hansard, Third Series, vol. cxviii, p. 1637.

The following protest was entered.

1st, Because no such measure as the present is consistent either with justice or expediency.

2ndly, Because the Bill appears to have been mainly dictated by the excitement which has recently prevailed, an excitement which it was the duty of the Government and the Legislature rather to allay than to encourage. Any attempt to interfere with doctrines by Act of Parliament is not only likely to fail, but may even promote what it is intended to repress.

3rdly, Because it is most unreasonable and inconsistent to profess to grant full toleration to the Roman Catholic religion, and at the same time to prohibit that species of communication

with the See of Rome which is indispensable for its perfect discipline and government.

4thly, Because the undue assumption of power involved in the terms of the Papal Rescript of the 29th of September, 1850, and of other documents connected therewith, however justly open to exception, can supply no reason for depriving her Majesty's Roman Catholic subjects of a regular and ordinary part of their ecclesiastical organization.

5thly, Because the appointment of ecclesiastical officers is essentially a matter of religious concern; and although it may be expedient in particular cases that such appointment should be under the control or influence of the civil power, and although it is the undoubted duty of the Legislature to provide that no temporal powers are exercised and no temporal rights impaired under the pretext of ecclesiastical regulations, yet to restrain a religious community not established by law in the management of its religious concerns, otherwise than by confining them within the sphere of religion, is inconsistent with the spirit of all our recent legislation; such restraint involves the principle and may lead to the practice of religious persecution.

6thly, Because the Act of the 10th of George IV, cap. 7, which for the first time since the Reformation secured to the Roman Catholic subjects of the Crown an equality of political rights, constituted a solemn expression of the intentions of the Legislature, and a pledge to the Roman Catholic community that they should thenceforward enjoy a full religious toleration.

7thly, Because the twenty-fourth section of the 10th of George IV, which prohibits all persons other than those thereunto authorized by law, from assuming the titles of archbishops, bishops, and deans of the National Church, affords no precedent for this Bill, inasmuch as the former simply defends from invasion certain known legal titles already appropriated, and importing high dignities and valuable rights, whereas the latter amounts to the total prohibition of a diocesan episcopate.

8thly, Because the penal provisions of this Bill not only differ in the above-named respect from those of the 10th of George IV, but they differ further to the prejudice of our Roman Catholic fellow-subjects, inasmuch as they are preceded by recitals and declarations of law concerning which the 10th of George IV was



silent, whereby a new and extended construction may be given, both to the penal provisions of this measure and likewise retroactively to those of the 10th of George IV.

9thly, Because the ancient Statutes against the exercise of a foreign jurisdiction, or restrictive of the importation of bulls, briefs, and rescripts, which are cited in justification of the present Bill, are unavailable for such a purpose; those Statutes have long been suffered to remain in desuetude; if now revived they may be found to assert powers for the Crown which would be destructive of the religious liberties secured to Protestant Dissenters as well as to Roman Catholics; they have no special reference to the establishment of provinces or sees, or to the assumption of titles, but are equally and indifferently directed against all exercise of jurisdiction, whether by diocesan bishops or by vicars apostolic, and are therefore incompatible with our recognized principles of toleration and religious freedom.

10thly, Because there is a peculiarly harsh and ungracious character in the present prohibition of diocesan government to the Roman Catholic community, as it is not disputed that at various periods from the Reformation down to a recent date the secular clergy, and more especially the Roman Catholic laity, have sought for the introduction among themselves of a diocesan episcopacy, with the approval and encouragement of the British Government.

11thly, Because there are presumptive grounds for believing that the late measures of the Pope have been adopted under the persuasion that if he should do what in his judgment was requisite for the spiritual wants and interests of his own communion the advisers of the Crown not only would have no desire, but had in fact publicly disclaimed all intention and all title to interfere.

12thly, Because this Bill, while it professes to refer to Roman Catholic titles, enacts a further and wholly gratuitous interference with religious freedom, by forbidding the assumption of episcopal titles on the part of any other persons than the prelates of the Established Church and the prelates of the Scottish Episcopal Communion. By the exception from its provisions of the last-named prelates, who are appointed independently of the royal authority, the Bill plainly admits that the appointment of bishops is in its essence a spiritual matter, and thereby condemns its own principal provisions.

13thly, Because it is inexpedient to protect the rights of the episcopate established by law by needless and unjust restraints upon the religious freedom of others. Such protection is likely to weaken rather than to strengthen the National Church in its proper office of maintaining and enlarging its influence over the people by moral and spiritual means.

14thly, Because the Bill, besides being unjust in principle, greatly endangers the peace and harmony of the various classes of her Majesty's subjects in the United Kingdom, and especially in Ireland: should the measure be carried into actual operation it may engender the most serious political and social evils; while if it should not be put in force against the use of titles openly assumed its introduction into the Statute Book will have tended to disparage the dignity of Parliament and the authority of the law.

George Gordon, Viscount **Gordon** (Earl of Aberdeen).

Henry Pelham Clinton, Duke of **Newcastle**.

Charles William Canning, Viscount **Canning**.

Edward Granville Eliot, Earl of **St. German's**.

John Stuart Wortley, Lord **Wharncliffe**.

George William Lyttelton, Lord **Lyttelton**.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

George Charles Mostyn, Lord **Vaux of Harrowden**, for all but the fourth and thirteenth reasons.

William Bernard Petre, Lord **Petre**, for all but the fourth and thirteenth reasons.

Henry William Stuart, Lord **Stuart de Decies**.

Francis Godolphin D'Arcy Osborne, Duke of **Leeds**.

## DCCCLVIII.

APRIL 22, 1852.

The borough of St. Alban's was disfranchised for bribery in the year 1852, by 15 and 16 Victoria, cap. 9. In the previous year an Act was passed appointing a Commission to enquire into the character of the borough, which reported very unfavourably. After the Bill had passed the second reading—moved by Lord Derby—Lord Redesdale moved that the inhabitants and electors be heard by counsel against the Bill. This was agreed to by 41 to 75, when the following protest was inserted.

1st, Because the facts upon which this Bill rests have not been called in question, and the motion implies that which I consider a mischievous and unconstitutional notion, that this Bill and all similar Bills are of a strictly judicial character, requiring the observance of those legal forms to which the House of Lords wisely

and mercifully adheres in proceedings which have for their object the punishment of guilt; this Bill enacts, not the punishment of individuals, but an improvement in the representation of the people and the constitution of the House of Commons. The elective franchise, in my opinion, is neither a property nor a right, but rather a trust; and Parliament is not only competent, but is bound, upon sufficient reason shown, to regulate, limit, alter, or revoke that trust, as may seem most conducive to the purity, efficiency, and character of the House of Commons. If, indeed, such Bills as these were strictly bills of pains and penalties, how monstrous would be the injustice of confounding in indiscriminate punishment the innocent with the guilty; and that many voters at St. Alban's were innocent was stated in debate by the promoters of this Bill; and how absurd would be the policy which left convicted criminals free to exercise their political franchises in every part of the Kingdom, except the borough of St. Alban's.

2ndly, Because it is intended, no matter what may be the nature of the pleading at the Bar of the House, that the petitioners shall be debarred from giving evidence in support of that plea; but counsel may be instructed to advance assertions which, if proved to be true, would show this Bill to be unjust and unwise. To listen to such statements, and then to treat them with utter disregard, refusing an investigation of their correctness, must appear a mere mockery of judicial proceedings, derogatory to the dignity, character, and authority of the House of Lords.

3rdly, Because in the cases of the Scottish Union and of the Irish Union (notwithstanding that in the latter case the right of sending burgesses to Parliament was considered to have a pecuniary value), and in the instance of the Irish forty shillings freeholders, this House did not deem it necessary to adopt any legal proceedings or forms; neither was any legal inquiry instituted, or any useless ceremony gone through, upon the passing of the Reform Act in 1832. The Statutes enacted upon these various occasions, and others abrogated, limited, or otherwise dealt with, the franchises of thousands of our fellow-subjects of all classes, and with high political privileges enjoyed by individuals. It seems to me, therefore, that now to maintain the doctrine that this House in dealing with such reforms and changes of the electoral system as time or circumstances may render expedient must invariably follow

the practice necessary only, but necessary indeed, for bills of pains and penalties, is to interpose useless delay and impediments to improvement, neither sustained by reason nor in accordance with the Constitution.

Ulick John De Burgh, Lord Somerhill (Marquis of Clanricarde).

## DCCCCLIX.

MAY 30, 1853.

The committee appointed to enquire into the Maldon election reported on the 18th of March, through their chairman, Lord Robert Grosvenor, that the election was void, and unseated Messrs. Du Cane and Miller. They also reported that there was reason to believe that corrupt practices had extensively prevailed at elections for the borough. Mr. T. Chambers, on the 13th of May, moved for a new writ, but this was resisted, and the motion was withdrawn, the House having agreed to address the Crown for an 'inquiry into the practices at elections for that borough,' and having invited the Lords to concur. The question came before the House of Lords on the 30th of May, when Lord Aberdeen moved to agree with the address of the Lower House. This motion led to a short but sharp debate in the Lords, during which Lord St. Leonard's quitted the House in anger, and Lords Derby and Aberdeen had an altercation.

The following is Lord St. Leonard's protest.

1st, Because this House ought, before it agrees to join with the other House of Parliament in an address to her Majesty, praying an inquiry to be made under the Act of the 15th and 16th of the Queen, to be satisfied that a *prima facie* case is made out by evidence to authorize the Crown to appoint a commission to try the allegations against the borough or place complained of. The two Houses have to inquire whether corrupt practices have, or there is reason to believe they have, extensively prevailed; and in this House no attempt was made to show from the evidence that such practices had, or that there was reason to believe that they had, extensively prevailed; and the resolutions as to bribery were carried in the committee of the House of Commons by divisions only of 3 to 2.

2ndly, Because the resolution upon which the address is founded, and upon which there was no division in the committee, manifestly because of the majority on each of the previous divisions, is not such as to authorize an address by the two Houses under the Act of Parliament. The resolution is, 'that there is reason to believe that corrupt practices have extensively prevailed at elections of

members to serve in Parliament for the Borough of Maldon.' But the Act of Parliament does not seem to warrant any such resolution as a foundation for an address. The enactment is no doubt general that a commission may issue upon a joint address representing to her Majesty that a committee appointed to try an election petition, or a committee appointed to inquire into the existence of corrupt practices in any election or elections, have reported that corrupt practices have, or that there is reason to believe that corrupt practices have, extensively prevailed in any county, &c., at any election or elections of a member or members to serve in Parliament; and these words seem to point at any election or elections, but they were rendered necessary in consequence of the power to address the Crown upon the report of a committee to try an election petition, or of a committee to inquire into the existence of corrupt practices at any election or elections. The Act did not intend that a committee to try an election petition should, although they could not report that corrupt practices had extensively prevailed at the election referred to them, have liberty to make a report as a foundation for an address under the Act, that corrupt practices had prevailed to some given former elections, much less that they should report that there was reason to believe that such practices had extensively prevailed at elections of members for the place in question. Such a report would be satisfied if such practices had prevailed at elections twenty years ago, although they had not prevailed at the last or at several immediately previous elections. The intention of the Act is shown by the sixth section, which authorizes the commissioners to inquire into the manner in which the election in relation to which such committee may have reported to the House, or where the report of the committee has referred to two or more elections, the latest of such elections, has been conducted, and whether any corrupt practices have been committed at such election. If the commissioners find corrupt practices at the election into which they are authorized to inquire, then they may carry back their inquiry, step by step, until they come to a pure election, when they are to stop, and not to carry further back their inquiries. Taking all the clauses of the Act together, they admit of a rational construction; but that construction renders the resolution of the committee in this case an insufficient foundation for an address.

3rdly, Because the address should be founded upon the report of the committee supported by the evidence, and not upon any rumours or extrinsic facts; and in this case the mover of the address in this House relied upon the fact that the borough of Maldon was notoriously corrupt, but of which notoriety there was no evidence.

4thly, Because the resolution of the committee of the House of Commons was wholly unsupported by evidence of corrupt practices at previous elections. It appeared that large Bills were left unpaid at the previous election in 1847, but they were publican's bills for refreshments, and therefore they fell under the head of treating; and moreover the members had refused to pay them. The Act of 15 and 16 Victoria, as it came up to this House from the House of Commons included treating in the sixth section; but as treating stood on a different ground from bribery, that part was struck out in this House, and the other House acquiesced in the amendment. The committee failed in their attempt to obtain evidence of previous corrupt practices. They asked William Lord, a bricklayer's labourer, 'They generally are pretty well paid at Maldon, are they not?' Answer, 'I never got nothing.' 'Had you ever a vote before this time?' Answer, 'Yes.' 'You had never got anything before?' Answer, 'No.' Mr. Oxley Parker, a warm partisan at elections for Maldon, upon being asked why he would not have acted in a particular manner, answered, 'Because I should have considered that I should be implicated in an act of bribery; and in all my transactions at Maldon I have never been asked for money for a vote, and I have never given it.' 'Do you apply that answer to this election?' 'To all elections.' 'That you say upon your oath?' 'On my oath I do, most distinctly.'

5thly, Because the only bribes proved were the four mentioned in the report; and even as to the proof of them the committee were divided in opinion. But beyond these trifling cases, there was no evidence of bribery. No fund provided, no voter applying for money, no person appointed to bribe, no general payment of expenses, and the two members in the plainest terms swore that no bribery existed to their knowledge, and they had furnished no funds for the purpose. In short from the outset that they had determined to conduct the election upon the purest principles. The committee resolved unanimously that it was proved to the

satisfaction of the committee that the acts of bribery were committed without the cognizance or privity of the sitting members.

6thly, Because the four acts of bribery relied upon were payments under the colour of payment of expenses, one of £5 to William Hearn, one of £2 to William Forster, and two of £1 each to William Lord and John Hills. William Hearn, who gave his evidence in a way which drew down upon him the severe animadversions of the committee, went from London to Maldon to vote. He claimed £5 11s. 7d. for banners and painting at the election of 1847, and because Mr. Dick's people would not pay him that demand he voted for the sitting members. He alleged that he had been put to much expense in having another to perform his work in town, and after the election he asked £2 10s. for his expenses, and he was paid £2. The evidence clearly proves that this was all that was paid to him, and that it was paid for his expenses. Three weeks afterwards he wrote a begging letter to Mr. Oxley Parker, but not naming any sum. That gentleman sent him £3 which he swore was a donation from himself, and that he never intended it to be repaid to him; and this is proved by an account of a few pounds which he subsequently made out and received, and which included the £2 paid to Hearn for his expenses, but in which no mention is made of the £3. It is perfectly clear from the evidence that this is the true view of the case, and therefore the report was not warranted as far as it stated that Hearn was bribed with £5. Forster also went from London to Maldon to vote, and required his expenses to be paid before he voted. He demanded £2 5s., and obtained £2. He attempted to make out a promise by Mr. Miller to provide him with a situation, in which he was contradicted, and wholly failed. The only remaining cases are Lord's and Hill's; they were relations, and resided some twenty-five or thirty miles from Maldon, and they were taken over to Maldon by Mr. Oxley Parker's bailiff. They claimed and obtained £1 each, which was paid a few months after the election, for their expenses. It would be difficult to make out that any of these payments were really bribes, although they might be liberal allowances, for expenses and excessive payments under that colour may well be deemed bribery. In all the four cases the voters might lawfully be paid their expenses. There was no proof of any other payments for expenses or in the nature

of bribes, and these four cases cannot, I think, be deemed sufficient to put the borough of Maldon upon its trial.

Edward Burtenshaw Sugden, Lord **St. Leonard's**.

## DCCCLX.

JULY 4, 1853.

Among the financial measures of the Government was an increase of the duty on spirits in Scotland and Ireland, the addition being 1s. a gallon in the former, 8d. in the latter case. Lord Monteagle strongly opposed the change, on the ground that it would increase illicit distillation, and gave a history of the spirit duties in Ireland. He was supported by Lord Derby, but the change was agreed to without a division. See Hansard, Third Series, vol. cxxviii, p. 1161. Lord Monteagle inserted the following protest.

Because the increased duty upon Irish spirits imposed by this Bill is contrary to the reason of the case, contrary to the highest authorities which have considered and reported on the question, and contrary to the experience of the last thirty years. It is against the reason of the case.

Because the low price of grain in Ireland, the abundance of fuel, the cheapness of the utensils used for illicit distillation, and the profit which can be realized by the smuggler, create motives to violate the law which have not been counteracted even by the severe injustice of the still fine system and the employment of the troops, which dangerously affects military discipline, without suppressing frauds upon the revenue. The increased duty upon Irish spirits is in opposition to the highest authorities.

Because the revenue commission, issued by the late Lord Liverpool's Government, and over which Lord Wallace presided, reported, after full inquiry, 'that if a higher duty than from 2s. 6d. to 3s. was put on Irish spirits, the licensed distillers could not enter into competition successfully with the illicit distillers,' and recommended a reduction to that amount.

Because this opinion was confirmed by the report of Sir H. Parnell's Excise Commission, after a further experience of ten years. 'There is a complete concurrence of opinion,' it is stated in the Report, 'that the practice of illicit distillation has almost uniformly kept pace with the advance of duty; that in 1823, when the great reduction of duty took place, the habits of the smuggler were



nearly annihilated, and that the revival and subsequent increase of these practices have been contemporaneous with the consecutive increases of duty in 1826 and 1830.' The Commissioners proceed to express 'a firm conviction of the necessity of retracing the steps taken in increasing the spirit duties, anticipating a general suppression of illicit distillation, and a full compensation to the revenue.'

Because the opinion thus given by eminent and departed men, freed from all political or party bias, has been confirmed by members of successive Governments, acting under immediate Parliamentary responsibility. Lord Spencer, in proposing his reduction of the duty imposed in 1830, stated that the Government, in which he acted as Chancellor of the Exchequer, 'had felt it their duty to consider the question with the view of ascertaining whether it might not be advisable, by a diminution of duty, to prevent illicit distillation, without exposing the revenue to much loss, and that in future years the revenue would suffer no loss whatever.' Mr. Goulburn, in 1840, when resisting a proposition for augmenting the spirit duties to an amount 50 per cent. below what is proposed by the present Bill, stated in like manner, 'that he believed it had been established that in proportion to the reduction of duty which had taken place the amount paid had augmented, and that the effect of increasing the duty had been to diminish the consumption, and, consequently, the revenue.' With still greater authority, at a later time, as Chancellor of the Exchequer, in 1843, when proposing the repeal of an increased duty on spirits, adopted on his own suggestion the previous year, the same statesman admitted his original belief, that, 'with the means of prevention at the command of the Government, no great increase of illicit distillation would have taken place, but that the additional duty had led to a progressive increase of offences against the revenue, and that on the ground of this increased immorality he felt bound to recommend the repeal of the additional duty on Irish spirits.'

Because these opinions, given by judicial officers as well as by politicians, are confirmed by experience and all the statistical facts of the case, the reduction made in 1823 having increased the duty-paid spirits from 3,300,000 gallons to 6,690,000 gallons, and the reduction of 1834 having in like manner produced a rise from

8,000,000 to 12,000,000, whilst the additional duty of 1843 acted in an opposite manner to the extent of 1,100,000 gallons, producing a diminished receipt to the Treasury, where an augmentation of £250,000 had been anticipated.

Because in addition to these considerations the increase of crime has been uniformly found to be the result of an increase of duty, the additional shilling imposed in 1842 having in a single year produced the following calamitous consequences:—

Increase of detections from	. . .	942 to 2,805.
Increase of prosecutions	. . .	331 to 1,239.
Increase of convictions	. . .	244 to 803.
Prisoners in gaol, 5th of April .	. . .	84 to 368.

Because the demoralisation that could not fail to accompany so extensive a violation of the law, was the more fatal in its consequences when it is considered that smugglers thus convicted and imprisoned were necessarily brought into contact with convicts guilty of moral offences of a much deeper dye, and when it is found that in the county gaols of Leitrim, Donegal, and Mayo, provided with single cells for seventy-nine, eighty-five, and one hundred and twenty-eight prisoners, fifty-two, fifty-seven, and seventy-six prisoners have been at one time confined for violations of the revenue laws.

Because whilst, as in 1830, the increased duty on spirits was imposed and defended in consequence of the repeal of the oppressive window tax, and in 1842 was proposed as a substitute for a duty on income, on the present occasion it is combined with an income tax, and a tax upon succession, pressing with peculiar force on Ireland, which is only recovering from the effect of a famine unexampled in modern times, whereby in one year an actual loss of £16,000,000 has been shown to have accrued on a rated income of £13,000,000, and where it is the duty of the State to foster and to encourage all means of productive industry and of improvement, and to avoid whatever can tend to a disregard or violation of the law.

Thomas Spring Rice, Lord Monteagle of Brandon.

## DCCCLXI.

JULY 7, 1853.

During this Session the excise duty on soap was repealed, see Budget speech of Mr. Gladstone, Hansard, Third Series, vol. cxxv, p. 1403. When the Soap Duties Bill came on for third reading in the Lords, Lord Ellenborough deprecated any remission of taxation, in view of the hostilities which seemed imminent, and moved the postponement of the Bill for a week. The motion however that 'now' should stand part of the question was carried without a division. The hostilities referred to were the Crimean War.

The following protest was inserted.

Because under altered circumstances which render immediate war a not impossible event, it is expedient to retain in hand a tax of which the repeal was proposed in contemplation of a long continuance of peace.

Edward Law, Earl of Ellenborough.

## DCCCLXII.

AUGUST 12, 1853.

The Government of India Bill received the royal assent on the 20th of August, 16 and 17 Victoria, cap. 95. The principal debates on the subject are to be found in Hansard, Third Series, vol. cxxix. Lord Monteagle moved three amendments: one forbidding the Directors from impeding the action of the legislative council; a second securing the right of entrance into the Civil Service and the medical staff of the army to natives; and a third requiring an exact and extensive statistical return from the Indian Government. These amendments were negatived, and Lord Monteagle inserted the subjoined protest, criticising the whole Bill.

Because, in a case where Committees of Inquiry on the affairs of India have been appointed by both Houses, it is inconsistent with reason, authority, and precedent that this law should be passed without awaiting the Reports from such Committees; and a communication of the evidence already taken.

Because such a course tends to degrade in public opinion the Committees thus recklessly set aside, to lessen the weight of all Parliamentary inquiries, and to deprive the House and the public of the power of comparing enactments now proposed with the evidence given by experienced and trustworthy witnesses.

Because the interval between the 1st day of August, the day

on which the present Bill was brought up from the House of Commons, and the present time, has not been sufficient to admit of that calm deliberation, equally requisite for the exercise of the judgment of this House, for the maintenance of its dignity, and to give weight to its final decision.

Because this rash course is the more inexcusable in a case where the appointment of the Select Committees on India was recommended on the highest authorities in both Houses, in order that 'the Government should submit their proposition after the Committees shall have made their Reports,' and that Parliament should be enabled to ascertain, on inquiry, 'whether the Court of Directors have been faithful stewards, and whether it is wise to continue, to abrogate, or to qualify the existing system.'

Because this hasty legislation, resting neither on reports nor upon evidence, can hardly be considered as supported by official experience or authority, when within twelve months four successive ministers have presided over the affairs of India, and have not had time to acquire that knowledge, which, however eminent their abilities and untiring their industry, cannot but be required for so great a task as framing a Bill for the Government of British India.

Because this proceeding is the more inexcusable when the late period of the Session has already been relied on as a sufficient justification for postponing or withdrawing many other Bills, from an acknowledged impossibility of considering their enactments with that wise and cautious deliberation which is indispensable to the making of good laws.

Because it has been sought to defend the passing of this Bill on the authority of a letter from the Governor-General of India, said to recommend immediate legislation, which letter has been used to procure Parliamentary support and to influence public opinion, though at length admitted to be a document which, not being on the table of this House, could not be referred to consistently with acknowledged privilege and recorded precedent.

Because the provisions of this Bill are inconsistent and irreconcilable, implying mistrust in the Court of Directors whilst continuing them in the exercise of many important functions, in the disposal of vast patronage, and in the nominal possession of sovereignty over 150,000,000 of the natives of India, depriving them

of the power of naming an assistant surgeon or of nominating an advocate general without the approval of the Board of Control, yet intrusting them with the imperial prerogative of recalling a Governor-General at their own will and pleasure.

Because the union in the same deliberative body of two classes of men, the one nominees of the Crown, the other elected by a constituency so indefensible as to have found no advocate, is inconsistent with all good government, and can hardly fail to produce jealousy, mistrust, and discord.

Because this unfortunate result is the more probable where the Crown nominees will in truth appear as six living witnesses of the incompetency or misconduct attributed to the Court of Directors, and where, supported by the Board of Control which has appointed them, they must act as an irritating but irresistible check on the freedom and independence of their elected colleagues.

Because this new constitution of the Court of Directors is not recommended by the success of similar experiments in the British Colonies, such experiments having generally been unsatisfactory, and of late years condemned and abandoned.

Because this Bill wholly fails in providing any adequate security for the faithful fulfilment of its own enactments by the Home Government, an omission the more unfortunate when it appears from the evidence partially reported that, in the following important cases, former Statutes have been disregarded and violated by those intrusted with their administration :—

1. A lac of rupees was directed by the Charter Act of 1813 to be applied for the purposes of education. No appropriation of this sum was made until the year 1824, when this omission was brought to light by the inquiries of the Committee of Public Instruction.
2. The Law Commission, though created by Parliament as a permanent body to provide improved, equal, and intelligible laws for India, was advisedly allowed to expire after the Court of Directors had themselves announced officially that 'the Act of Parliament creating these offices requires that new appointments shall be made when vacancies arise; and that it is only by another Act that this obligation can be suspended and any new system substituted.' No application was, however, made

to Parliament on this subject. The Directors prohibited the filling up of vacancies, and the Law Commission became extinct by the Act of the Home Government, in utter contempt and disregard of that law to which alone those Directors owed their own authority, and which it was their bounden duty to obey.

3. The various measures of law reform, matured and recommended by the Law Commission, by an unparalleled succession of shifts and postponements have been set aside by the Home Government, or, to use the language of an able and experienced servant of the Company, they have been 'laid on the shelf.' After reciting six important measures recommended and prepared by the Law Commission, Mr. Cameron, who filled with the highest distinction the office of the fourth ordinary member of Council, states that not one of these measures had been carried into effect by the Government.
4. The last Charter Act, 3rd and 4th William IV, cap. 85, conferred a power of legislation on the Governor-General and Council in India, unlimited except in respect to certain specified cases, yet it appears conclusively from the evidence of Mr. Cameron (2,074, 2,080, 2,084) that in more than one case an actual prohibition was issued by the Home Government restraining the Legislative Council from passing certain legislative measures without the previous sanction of the Court of Directors, and in the important question of the *lex loci* for India, the law was approved of by the Legislature, sanctioned by the Governor-General, Sir Henry Hardinge, and adopted in its principle by two eminent judicial authorities, Sir L. Peel and Sir Henry Seton, yet the Directors wrote, 1st of May, 1845, 'We think it proper to desire that no law declaring the *lex loci* of India may be passed without being submitted for our approbation.' This inhibition is considered by Mr. Cameron to be contrary to law.
5. The Act of the 3rd and 4th William IV, cap. 85, sect. 103, expressly prescribed that for every vacancy in the Civil Service four candidates should be named, and the best candidate elected by examination. The declared object

of this enactment was that India was entitled to the highest talents that England could spare, and that under the proposed system it was conceived that young men would be sent out, superior either in talents or in diligence; yet these express enactments were never carried into effect by the Home Government, and the former practice was persevered in, though expressly repealed by law. In 1837 a legislative sanction was given to this practice, till then illegal. The Act of 1837 is stated to have been founded upon an intention of recommending to Parliament the abolition of the College of Haileybury. No such proposal was ever made, yet by its suggestion means were obtained to suspend the system of appointing to the Civil Service by competition, and the unrestricted private patronage of the Directors, which it had been the declared intention of Parliament in 1833 to limit, has been during the last twenty years continued.

6. The eighty-seventh section of the last Charter Act provided in unqualified terms for the unlimited eligibility of the natives of India to all offices whatsoever, without exclusion of any person on account of caste, colour, birth, or religion. The declarations of the statesmen responsible for the Act of 1833, all concur in giving to this clause the widest interpretation. It was described as a subject of just exultation and pride that Parliament should have passed this clause announcing 'the only principle on which India could be administered.' Nor was it intended that this should remain a barren declaration of an abstract truth. On the contrary, the question was asked, 'Whether England could give knowledge without awakening ambition, and whether it was meant to awaken ambition and not to provide it a legitimate vent?' The new and liberal system thus introduced was strongly contrasted with that which had previously existed, under which it was stated by one who had been for many years President of the Board of Control, that 'instances were adduced of corruption and venality, but these were the result of our own conduct; duties of importance devolved upon the natives, without adequate

remuneration, either in rank or salary; no reward or promotion was given for fidelity.' It was forcibly asked, 'Why complain of peculation and bribery? We made vices, and then punished them.' Yet, after these promises, and the enactment founded upon them, no sooner had the Statute of 1833 been passed than a regulation, which seems to have been carefully kept back from the Committees of both Houses, was boldly announced, and has ever since been undeviatingly acted upon by the Court of Directors, the distributors of all civil patronage. This regulation neutralized the effect of the eighty-seventh clause. The covenanted service of India was declared to be exclusively confined to Europeans. To the uncovenanted or subordinate grades of the service alone the native subjects of the Queen were held to be eligible. Thus, the unrestricted words of the Statute and the gracious intentions of Parliament have been practically defeated. To no one office from which the natives of India were excluded before the Act of 1833 have they been since admitted, though it is undeniable that during those twenty years the natives have rapidly advanced in education and knowledge, and though in the offices they have been permitted to fill the natives have given the highest proofs of trustworthiness and ability.

Because the conduct of the Home Government towards the natives, as above stated, rendered it expedient to have guarded against a continuance of such abuse by a declaratory and enacting law, which has been proposed and rejected, and the only security now obtained for the fulfilment of the intentions of Parliament is to be found in the unqualified declaration of the minister of the Crown, having the conduct of this Bill, 'that no distinction between the covenanted and uncovenanted service is hereafter to work the disqualification of any native of India for public employment.' This declaration, when taken in connexion with the proposed admission of natives to Haileybury College and to high offices in India, and when coupled with the power reserved to Parliament of amending the present Statute from year to year, will, it may be hoped, prevent the intentions of the Legislature from being again frustrated.



Because in those cases where this Statute appears to be founded upon just principles it would seem that timidity or irresolution prevented their full enforcement. When it is considered that one of the advocates of the Bill admitted that all the best and most useful measures of Lord William Bentinck met with the opposition of the Home Government, and were made the matters of censure where they merited praise, and when another supporter of the present Bill has stated that in proportion as a province of India has been long under the jurisdiction of the Company its condition is unimproved and its inhabitants unprosperous, while it is in the provinces latest acquired that success and advancement are to be found, the enactments of the present Bill cannot but appear inadequate and incomplete for the fulfilment of those duties which the Imperial Legislature of England owes to the inhabitants of India.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

### DCCCLXIII.

MARCH 24, 1854.

By 17 and 18 Victoria, cap. 8, certain amendments were made in the Irish Valuation Act of 1852 (15 and 16 Victoria, cap. 63). Some of the clauses were objected to, and in particular that which made tenements of a less rating than £5 liable to county cess. But the amendments were rejected.

The following protest was inserted.

1st, Because it is impolitic and unusual to introduce a considerable change in taxation into a Bill which from its title and preamble professes only to deal with the subject of valuation.

2ndly, Because for several years past houses under the annual value of five pounds have been excepted from the county rate, and no sufficient cause has been shown why that exemption should not be continued.

3rdly, Because it is to be feared that it will be difficult, if not impossible, to collect the tax from the occupiers of such houses, on account of their excessive poverty, and that thereby large arrears of county rate will accumulate, causing great confusion in the accounts of the treasurers of the counties.

Richard John Hely Hutchinson, Viscount **Hutchinson** (Earl of Donoughmore).

## DCCCLXIV.

MAY 26, 1854.

A Bill, under the title of a Landlord and Tenant Bill (Ireland), together with another Bill for granting leases, was read a second time in the House of Lords, on the motion of Lord Donoughmore (Viscount Hutchinson),—see Hansard, Third Series, vol. cxxxi, p. 2,—without a division, and referred to a Select Committee. On the 18th of May, the Duke of Argyll moved that the House go into Committee on the Irish Land Bills, and stated what were the conclusions arrived at by the Select Committee. (Hansard, vol. cxxxiii, p. 513.) On the 26th of May, Lord Clancarty moved to omit the 37th clause of the Bill, on the ground that ‘it was a violation of a fundamental principle of property by arbitrarily transferring, by a retrospective enactment, from landlord to tenant, that which is at present the landlord’s property.’ But this amendment was negatived, and the following protest was inserted. The Bill dropped in the Commons, while it was in Committee, on the 13th of July. See for the debate on this subject, Hansard, vol. cxxxv, p. 164.

1st, Because we consider it to be of the highest importance that the law in England and in Ireland should rest on the same fundamental principles, and that any deviation from such rule should only be sanctioned by Parliament where a difference of circumstances between the two countries can be clearly proved to exist, and should then be limited strictly to such difference of circumstances.

2ndly, Because in the present instance no such difference of circumstances has been established as can justify some of the enactments contained in this Bill.

3rdly, Because it is our opinion that in all cases of contract, but more especially in those between landlord and tenant, the prosperity of both classes will best be promoted by leaving them free to enter into such covenants as shall be mutually agreed to, securing, as far as is practicable, the inviolability of these covenants when made, and affording equal and effectual remedies for maintaining and enforcing the rights of both parties.

4thly, Because the experience of two centuries has fully confirmed the judgment of Sir John Davies, whose experience as a statesman and as a lawyer led him to the conviction that ‘the application of the English law of tenure to Ireland was essential to the well-being of the latter country.’

5thly, Because the sect. 37 of the present Bill, in its *ex post facto* operation, is framed on a principle opposed to the rights of

property, making a gratuitous transfer to one class of that which now belongs to another, and, in order to mitigate this act of injustice, introducing exceptions and limitations which cannot fail to lead to confusion and litigation, to be supported by doubtful and questionable evidence.

6thly, Because this provision is utterly repugnant to the faith of Parliament as pledged to the purchasers of Irish landed property under the Encumbered Estates Act, parties to whom a Parliamentary title declared good against all claims whatsoever, being under this Bill made responsible for new obligations to which they have not consented, and to pecuniary burdens created by an *ex post facto* law.

7thly, Because we agree in the opinion of the statesman under whose authority the Devon Commission was issued, that 'it is a grievous error on the part of the Legislature to interfere with the rights of property, the maintenance of which is the great characteristic of a state of social improvement, and any interference with which constitutes the greatest blow that can be given to industry and to the accumulation of wealth.'

8thly, Because, whilst we desire that an improvement should be effected in the dwellings of the cottiers class, we apprehend that the provisions of this Bill, and more especially the sect. 106, will fail to produce this desirable result, the future recovery of rent of cottiers holdings being made dependent upon the proof of two allegations of fact, each of which may be made matters of litigation and controversy; the consequence will be an indisposition to invest capital in property thus rendered uncertain and unproductive; the number of dwellings for small occupiers is therefore likely to be diminished, and a new pressure cast on the very class whom it is intended to benefit.

9thly, Because we are indisposed to rely on ingenious contrivances attempted to be carried out by compulsory enactment as the true source of national improvement, rejoicing to think that the force of sound public opinion, the just appreciation of duty, and even the motives of enlarged private interest, are leading on both the proprietors and occupiers of land in Ireland in a course of judicious progress, and we therefore prefer to place our reliance upon the development of natural causes, rather than to risk counteracting those causes by an unwise though well-meant system of legislation.

Thomas Spring Rice, Lord Monteagle of Brandon.

Ulick John De Burgh, Lord **Somerhill** (Marquis of Clanricarde).  
William Willoughby Cole, Lord **Grinstead** (Earl of Enniskillen).

John Alexander Thynne, Marquis of **Bath**.

William Thomas Le Poer Trench, Earl of **Clancarty**.

Robert Jocelyn, Lord **Clanbrassill** (Earl of Roden).

Edward Lawless, Lord **Cloncurry**.

Richard Handcock, Lord **Castlemaine**.

Robert Bourke, Earl of **Mayo**.

## DCCCLXV.

AUGUST 1, 1854.

By 17 and 18 Victoria, cap. 89, the Irish constabulary received powers by which they were enabled to check illicit distillation. Amendments were moved in the Lords by Lord Monteaule (see Hansard, Third Series, vol. cxxxv, p. 1070), the purport of which was to omit all expressions or clauses which imposed this duty on the constabulary, on the plea that this force was under military regulations, and that the imposition of such a duty would be dangerous to the discipline of the whole body. Lord Monteaule took a division on the 13th clause of the Bill, but was defeated by 17 to 11.

The following protest was inserted.

1st, Because it is inexpedient, on general principles, to impose on the constabulary of Ireland, a force originally constituted and well adapted for the execution of the ordinary law of the land, and the protection of life and property, the conflicting revenue functions required for the suppression of illicit distillation.

2ndly, Because the maintenance of this distinction between the ordinary duties of civil constables and the duties hitherto exclusively intrusted to officers of the Excise revenue, which this Bill sets aside, was strongly laid down in the Statute originally constituting the Irish constabulary, and has been adopted in every Act of Parliament subsequently passed during the last thirty years.

3rdly, Because this enactment is also at variance with the judgment of the Treasury, and of the Government of Ireland, more especially as pronounced in 1834 and 1835, in which latter year the present Viscount Hardinge informed the Treasury, that after a full consideration of the different bearings of the question the Lord-Lieutenant's opinion was, in accordance with that of the preceding Irish Government, that the constabulary force should be kept quite distinct from the revenue police of Ireland.

4thly, Because a Select Committee of the House of Lords, appointed to consider the consequences of extending the functions of the constabulary in Ireland to the suppression or prevention of illicit distillation, has not given any recommendation which affords a sanction to the present Bill.

5thly, Because the evidence given before that committee by public officers of the greatest ability and experience is wholly at variance with the thirteenth section of the Bill, by which authority is given to the Lord-Lieutenant of Ireland, at his discretion, to sanction the employment of the officers and men of the constabulary, not only in suppressing the illegal sale of spirits in unlicensed houses, but in searching for private stills, spirits, materials, and implements for distillation, and enforcing in every respect the laws which have hitherto been entrusted to revenue officers.

6thly, Because the constabulary are admitted on all hands to be unfitted for the duties of still-hunting, whilst without still-hunting it is admitted likewise that illicit distillation cannot be suppressed.

7thly, Because the enactment by which civil constables, wholly unacquainted with the complicated system of law passed for the protection of the Excise revenue, cannot be successful, it being manifestly impossible that such constables can, without instruction or experience, be competent to discharge satisfactorily new and difficult duties.

8thly, Because, as by the thirteenth section the Lord-Lieutenant of Ireland is authorized to confer on the county inspectors, sub-inspectors, head or other constables within any district in Ireland, all the powers, authorities, and privileges of officers of Excise, as fully as if the general Excise Act were repeated and re-enacted in the present Bill, it follows that the constabulary will not only be charged with conflicting duties, but will be called on to administer two differing systems of law, and will be made subordinate to two differing and possibly conflicting authorities, subversive of their order, discipline, and responsibility, and inconsistent with the due execution of their primary civil functions, and their obedience to the civil authority, whether that of the judges of the land at assizes, the sheriffs, or the justices of the peace at petty and quarter sessions.

9thly, Because the greatest risks and dangers must consequently be apprehended if the civil force bound to act at fairs, public

meetings, and wherever a breach of the peace is apprehended, as well as to attend as witnesses in courts of justice, and to execute the warrants which may be issued in enforcement of the law and for the apprehension of offenders, are by this Bill charged with the heavy and dangerous duties by day and by night on which the suppression of illicit distillation exclusively depends.

10thly, Because this enactment is utterly repugnant to the following evidence now on the table of this House, and which has not been contradicted:—Mr. Dancer, an experienced officer in the Revenue police, states, that if the constabulary are employed for the purpose of seizing stills and implements of the distillers' trade, it will interfere with the ordinary duty of the constabulary, and prevent the possibility of the two duties from being performed; Mr. Coulson, a resident or stipendiary magistrate, states, that advantage would be taken by the people of the removal of the constables on civil duties, and an impulse given to illicit distillation in their absence; Major-General Sir Duncan Macgregor considers the union of any body of men under two authorities for the discharge of two distinct classes of duties to be objectionable; the constables might neglect their police duties, he observes, on the plea of revenue service, or *vice versa*, and orders respecting revenue duty might run counter to those orders already given to the constabulary as conservators of the public peace; Colonel Maclachlan, the head of the Revenue police, states the duties with which he is intrusted to require a separate and exclusive corps to perform them, and this he gives as the result of seven years' experience and a great deal of thought; the chairman of the Board of Inland Revenue, Mr. J. Wood, remarks to the same effect, that he cannot conceive any force acting efficiently under two masters; it would act, he observes, more beneficially if the constabulary were employed in preserving the peace, and the revenue police in looking after the revenue, combined action leading to the inefficiency of both forces.

11thly, Because the efficiency of the constabulary depends very mainly on their retaining and deserving the confidence of the people; a confidence which it is now shown that they possess, not only by the evidence of all the gentlemen examined, but by the fact of their execution of nightly patrol duties in parties of two or three without encountering danger or molestation; and it is hardly possible to expect that this good feeling will be preserved if they are called on

to execute revenue functions, which are viewed with so much jealousy and dislike as now to require the presence of much larger parties, attended by an officer of a higher class, authorized to enter and search houses by day or night, and authorized to use firearms in case of obstruction, without the presence or intervention of a civil magistrate.

12thly, Because, when it has been proved by experience that the execution of revenue duties for the suppression of illicit distillation by the land forces of the Crown has led in former times to the disorganization and loss of discipline of the military detachments so employed, though kept under the authority of a commissioned officer, it cannot but be apprehended that a similar experiment tried on the constabulary will be productive of like disastrous results.

13thly, Because it is inexpedient to cast on the constabulary new duties, most laborious and repulsive in their nature, at a time when it is found difficult to recruit that corps, and to retain the services of efficient and experienced men.

14thly, Because the present time is signally inappropriate for the proposed change, even if no objections of principle existed: twelve regiments have, within a few months, been withdrawn from Ireland for foreign service, and the duties and the responsibilities of the constabulary are proportionably increased; and if, as has been stated on official authority, the collection of the spirit and malt revenue is now satisfactory and successful, there is at once more danger in the proposed change, and less necessity for making it.

15thly, Because exceptional laws like the present, confined to particular districts and to a limited time, at the discretion of the Executive Government, cannot be justified, except by an overpowering necessity, and cannot be applied to merely fiscal purposes without a sacrifice of the principles of a free constitution.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

John Alexander Thynne, Marquis of **Bath**.

Cornwallis Maude, Viscount **Hawarden**.

Ulick John De Burgh, Lord **Somerhill** (Marquis of Clanricarde).

## DCCCLXVI.

JUNE 5, 1855.

By 18 and 19 Victoria, cap. 27, the stamp duty on newspapers was repealed, and the regulations under which such periodicals might be transmitted by post were recast. The debates in the Commons may be found in Hansard, Third Series, vol. cxxxvii, p. 1107. The measure was warmly supported by Sir Bulwer Lytton, and objected to by Mr. Drummond; who took occasion to attack the Times newspaper. The second reading of the Bill was carried by 215 to 161. It was read a second time in the Lords without a division, but with speeches from Lords Canning and Montague. Hansard, vol. cxxxviii, p. 952.

The following protest was entered.

1st, Because it is inconsistent with the most obvious principles of financial policy to endanger a permanent annual income like that produced by the stamp duty on newspapers, and which nearly amounts to £500,000, at a time when the country is engaged in a formidable war, and when the necessities of the public service have rendered it necessary to contract a loan of £16,000,000 during the present session.

2ndly, Because the annual amount of revenue thus placed at risk by the ill-advised repeal of the stamp duty upon newspapers would, if retained, have been sufficient to provide for the interest of the permanent debt contracted during the present session, or would have lessened the necessity of imposing increased and oppressive burdens on the people.

3rdly, Because the inexpediency of this sacrifice of permanent income becomes still more apparent at a period like the present, when, in addition to the loan contracted, Parliament has also been compelled to increase the income tax, as well as the duties of customs and excise on articles of the first necessity, diminishing the command of the industrious population over the comforts and necessities of life, checking the progress of our commercial relations, and restricting the foreign markets for our manufactures.

4thly, Because such a sacrifice of taxation is the less called for, when, as in the present instance, it is applied to a branch of the revenue increasing steadily in amount from year to year, and thereby demonstrating that its pressure has not acted injuriously to the public interests.

5thly, Because the proposed repeal of the stamp duty on news-



papers, so far from being sought for as a relief to the class of newspaper proprietors whose interests are primarily involved in the question, is, on the contrary, earnestly deprecated by them, as being likely to lead, through an unjust and unchecked piracy, to the depreciation of their capital, and the sacrifice of their commercial interests.

6thly, Because no attempt has been made by the Legislature, as justice required, to protect such parties from these severe anticipated losses, which, if they should take place by the reduction of the just profits of industry (the result of a fraudulent competition), may lessen the motives and the means of newspaper proprietors for procuring and communicating trustworthy information, thus reacting mischievously upon public and private interests, by limiting and defeating the most useful functions of a free and intelligent press.

7thly, Because the loss of permanent income produced by the present Bill cannot but throw obstacles in the way of the future reduction of the war taxes on the restoration of peace, to which the faith of Parliament stands solemnly pledged to the people of the United Kingdom.

Thomas Spring Rice, Lord Montea<sup>g</sup>le of Brandon.

## DCCCLXVII.

JULY 20, 1855.

The Act 18 and 19 Victoria, cap. 67, was passed in order to facilitate the recovery of debts on bills of exchange and promissory notes, by preventing frivolous and fictitious defences to actions thereon. This Act originated in the House of Commons; but on the 19th of December, 1854, Lord Brougham introduced a Bill on the same subject, assimilating the law of England to that of Scotland, and, as he stated, to that of all civilised countries, by permitting the registration of dishonoured Bills, and thereon according the creditor the means of summary execution, instead of forcing him to institute an action at law. Lord Brougham's Bill had been introduced in a previous session, had passed the Lords, and had been dropped in the Commons. A similar fate attended the present measure. It was carried on the second reading by 114 to 58, and referred to a Select Committee. When the Bill, originated in the Commons, came to a third reading, Lord Brougham attempted to introduce certain clauses into the Bill by which it would be assimilated to that which he had himself projected, as also a schedule of forms. These amendments were rejected, and the following protest was inserted.

D d 2

1st, Because the Bill provides a less complete remedy than the Bill, twice passed by this House, for the evils so justly complained of, which exist in no commercial country but England; and the amendments proposed would have given parties the option of either proceeding under the provisions of the Common Law Procedure Act, or pursuing the more effectual course.

2ndly, Because the law of England would thereby have been the same in this important department with that of Scotland, where parties have long had the option, and have, in almost every instance, preferred the more effectual mode of proceeding.

3rdly, Because the two modes of proceeding having been fully considered by the great mercantile bodies in England, those of London, Liverpool, Manchester, Leeds, Sheffield, and others, the preference has been uniformly given to that provided by the Bill of this House.

4thly, Because great as is the amendment of the law effected by the Bill now passed, and essential as is the improvement given to that Bill by adopting the two most important provisions of the Bill of this House, without which indeed the whole measure would have been nugatory, what remains to be accomplished bears a considerable proportion to the good now effected, and the delaying its attainment can only tend to give the adversaries of all plans of this description a pretext for resisting a further amendment of the law.

Henry Brougham, Lord Brougham and Vaux.

## DCCCLXVIII.

AUGUST 7, 1855.

An Act, limiting the liability of members of certain joint stock companies (18 and 19 Victoria, cap. 133), was passed in this session, after long debates in the Commons. The second reading was taken in the Lords on the 7th of August, when Lord Stanley of Alderley adopted the somewhat unusual expedient of moving urgency for the measure, in the following resolution:—"The Limited Liability Bill" having been introduced and passed by the House of Commons in conformity with an unanimous resolution of that House declaring "that the law of partnership which renders every person who, though not an ostensible partner, shares the profits of a trading concern, liable to the whole of the debts, is unsatisfactory, and should be so far modified as to permit persons to contribute to the capital of such concerns on terms of sharing their profits, without incurring liability beyond a limited amount;" and the progress

of the Bill having been delayed by the lengthened discussions on the conduct of the war, which prevented it being sent up to this House at an earlier period, and great inconvenience being experienced from the suspension of many undertakings of great importance, consequent on the stoppage of all Charters and Acts of Parliament for giving limited liability, in the anticipation of Parliament legislating on the subject,—the circumstances which render legislation on the subject-matter of the said Bill expedient are of such urgency as to render the immediate consideration of the same necessary.' The resolution was carried by 38 to 14, and the following protest inserted.

1st, Because the importance of a measure is no proof of its immediate urgency; and while the long existence of the law which the Limited Liability Bill is to alter fundamentally, and under which the trade and commerce of the country has grown and prospered, proves the importance of this Bill, and its claim to the careful and deliberate consideration of this House, it altogether negatives the plea of any urgent necessity existing for immediate legislation on the subject-matter thereof.

2ndly, Because this House resolved on the 4th of May last not to read any Bill a second time after the 24th of July, unless the subject-matter thereof was of recent occurrence or urgency, and many peers have left London under the impression that no further business of importance was to be brought forward in the present session.

3rdly, Because 'The Consolidated Fund Appropriation Bill' stands for second reading on Thursday next, and the speedy prorogation of Parliament is thereby announced, and the Lord President of the Council having this day declined to say whether it might not take place, as generally expected, on Saturday next (which the advanced state of the said Bill renders possible), it is derogatory to the character of the House, and contrary to the spirit of its standing orders, and to all precedent, that it should proceed with a Bill of such importance, under such circumstances, in opposition to the wishes and request of several peers who are in the habit of taking an active part in the proceedings of the House, and who declare that they have not had time for a due consideration of the said Bill, and for the preparation of amendments thereto.

John Thomas Freeman Mitford, Lord Redesdale.  
Cornwallis Maude, Viscount Hawarden.  
George William Lyttelton, Lord Lyttelton.

Henry George Grey, Earl Grey.  
Edward Jervis Jervis, Viscount St. Vincent.  
Edward Burtenshaw Sugden, Lord St. Leonard's.  
Thomas Spring Rice, Lord Monteagle of Brandon.  
John Alexander Thynne, Marquis of Bath.  
William Samuel Draper Best, Lord Wynford.

## DCCCLXIX—DCCCLXXI.

FEBRUARY 25, 1856.

On the 16th of January, 1856, Sir James Parke, one of the Barons of the Exchequer, was created Lord Wensleydale for the term of his natural life. On the 7th of February Lord Lyndhurst called the attention of the Lords to the patent which had lately been granted, and moved that the patent be referred to the Committee of Privileges. He entered at length into the historical and constitutional question, and was answered by Lord Granville, who gave an account of the motives which induced the Government to create a life peerage. Lord St. Leonard's, the Lord Chancellor (Cranworth), Lord Campbell, Lord Grey, Lord Derby, the Duke of Argyll, and Lord Brougham, took part in the debate. The motion was carried by 138 to 105, the law lords generally voting with the majority. (Hansard, Third Series, vol. cxi, p. 263.) The Committee sat on the 12th of February and took evidence. On the 22nd of February Lord Glenelg moved that the Judges should be consulted as to whether the Crown could grant the dignity of a Baron of the United Kingdom for life, and as to what privileges were conferred by such a grant. This motion was rejected by 142 to 111, the reason being apparently that in matters of privilege the House of Lords would take counsel of no one. Lord Lyndhurst then moved that the House agree with the report of the Committee, which was to the effect that the letters patent issued do not entitle the grantee therein named to sit and vote in Parliament. To this Lord Grey moved an amendment to the effect that the highest legal authorities had held that the Crown did possess the power of granting life peerages, and that the Lords would not be justified in assuming the illegality of the present letters patent, adding that if this amendment were carried, he should move other resolutions, the purpose of which was to prevent the abuse of the practice. The motion of Lord Lyndhurst was carried by 92 to 57. Lord Wensleydale subsequently took a peerage of inheritance.

The following protests were entered.

1st, Because the order of reference not having directed any inquiry whether a writ of summons would entitle Lord Wensleydale to sit and vote in this House, the report of the Committee of Privileges purports to decide a question not submitted to them.

2ndly, Because, according to the uniform opinions of the highest legal authorities for above two centuries and a half, the Crown has

the prerogative of creating a peer for life, with all the privileges of the hereditary peerage, except that of transmitting his honours to his descendants.

3rdly, Because the creation of a peerage for life, with a limitation in the patent to collateral relatives, has been common even in modern times, and no such patent would have been valid if the prerogative contended for did not exist.

4thly, Because any subject of the Crown who has received a writ of summons to this House is entitled to take his seat according to the exigency of his writ, and there is no principle or precedent warranting this House in refusing to admit him.

Robert Monsey Rolfe, Lord Cranworth (Chancellor).  
George Douglas Campbell, Lord Sundridge (Duke of Argyll).  
Granville George Leveson Gower, Earl Granville.  
Edward John Stanley, Lord Stanley of Alderley.  
Henry Fitzmaurice Petty, Marquis of Lansdowne.  
Dudley Ryder, Earl of Harrowby.  
Fox Maule Ramsay, Lord Panmure.  
Charles Grant, Lord Glenelg.  
John Campbell, Marquis of Breadalbane.  
John Robert Townshend, Viscount Sydney.

1st, Because it has been repeatedly laid down in the writings of the highest legal authorities that the Crown possesses the right of creating peers for life, and this right has been expressly recognized by committees appointed by the House of Lords in 1817 and the following years to enquire into the dignity of a peer, the reports of these committees having been printed when presented, and afterwards reprinted by order of the House, and having remained unquestioned for upwards of thirty years.

2ndly, Because the right of the Crown to grant peerages for life, which has been thus declared and recognised, has been actually exercised up to a comparatively recent period, several patents creating peerages for life having been granted to women since the beginning of the last century, while it has not been shown that the validity of such patents depended on the sex of the persons on whom peerages were conferred.

3rdly, Because, in the face of such authorities and precedents, it appears to me impossible to assume that the power legally and constitutionally vested in the Crown has been exceeded by the

grant of a peerage for life to Lord Wensleydale, and the consequent issue to him of a writ of summons to the House of Lords.

4thly, Because little attempt was made in debate to disprove the legality of the Act of the Crown, the principal stress having been laid on arguments tending to show rather an improper exercise than an illegal assumption of power by the Crown, and these arguments, if admitted to their full extent, would only lead to the conclusion that the ministers who have advised a wrong use of the royal prerogative are deserving of censure, but could afford no ground for excluding Lord Wensleydale from the House of Lords.

5thly, Because the resolution come to by the House of Lords to prevent Lord Wensleydale from taking the seat in the House to which he has been called by her Majesty's letters patent and writ of summons appears to me, for the above reasons, to be an unconstitutional invasion of the rights and prerogative of the Crown which may hereafter become a precedent for proceedings still more dangerous and unjustifiable.

Henry George Grey, Earl Grey.

William Courtenay, Earl of Devon.

1st, Because by the law and usage of Parliament, as well as by the principles of reason and justice, a committee is authorized to consider such questions only as shall have been committed to them by vote of the House.

2ndly, Because in cases where the original order of reference is found to have been unduly limited, and where it becomes expedient that new and additional matter should be considered and reported on, the undoubted law and usage of Parliament demand that a further order of reference or instruction should first be obtained from the House, in order to justify the committee in exceeding the limits specified in the original resolution by which its authority is created and defined.

3rdly, Because any report from a committee so far as it exceeds the authority granted by the House must be considered as *ultra vires*, and therefore as wanting in Parliamentary validity.

4thly, Because the only authority conferred on the Committee for Privileges on the Wensleydale peerage was 'to examine and consider the letters patent presented to the House, and to report thereon.'

5thly, Because the Committee for Privileges have reported that

‘neither the said letters patent, nor the said letters patent with the usual writ of summons issued in pursuance thereof, can enable the grantee to sit and vote in Parliament.’

6thly, Because in thus deciding, not only on the legal force and meaning of the letters patent, a copy of which had been produced to the House, and referred to the committee, but in deciding also on the meaning and import of a writ of summons which had never been presented to the House or noticed in the order of reference, the Committee for Privileges has exceeded its just powers, and its report, so far as relating to the writ of summons, is contrary to the law and usage of Parliament, and is therefore of no force and validity, and ought not to be drawn into precedent hereafter.

7thly, Because, independently of all Parliamentary usage, it appears contrary to the first principles on which adjudications on contested rights should rest to decide on the legal import of a written instrument which has not been examined, produced, or even called for.

8thly, Because a report thus purporting to limit the effect of her Majesty’s writ of summons in anticipation of its production at some future time, not resting on any Parliamentary precedent referred to, is an unauthorized extension of the privileges of this House, and is derogatory to the just prerogative of the Sovereign.

9thly, Because exception has been taken in debate by high legal authority to the extracts made from the Journals, and laid before the House, on the grounds of their insufficiency and incompleteness, and yet the supposed authority of these extracts has been relied on in support of the decision which the Committee for Privileges and this House have been called on to pronounce.

10thly, Because the adoption of this report, as touching the patent granted and the writ of summons issued to James Lord Wensleydale, appears the more dangerous as a precedent and the more unjust in principle when it is considered that a motion has been made and rejected requiring the attendance of the learned judges, with the view of obtaining their opinion on the legal import and just construction of the letters patent of the Crown laid before this House, and referred to the Committee for Privileges.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

Charles Grant, Lord **Glenelg**.

William Courtenay, Earl of **Devon**.

## DCCCLXXII—DCCCLXXIV.

JUNE 6, 1856.

Immediately after the decision of the Lords in the Wensleydale Peerage case, Lord Derby moved for a Select Committee of the House, to examine into and report on the appellate jurisdiction of the Lords. This Committee reported that it was expedient that certain persons be appointed, with life peerages, for the purpose of hearing appeals. A Bill was therefore brought in, enabling the Crown to confer peerages for life on any two persons who may have acted as Judges for five years, to give them the title of Deputy Speakers, to put on them the duty of assisting the Chancellor in his judicial duties, and to pay them £5000 to £6000 a year. The Bill was carried through the Lords (the Queen's consent being given at the third reading, and a division being taken on the last stage) by 44 to 4. It was dropped in the Commons on the 10th of July, by being referred, on the motion of Mr. Raikes Currie, to a Select Committee.

The following protests were entered.

1st, Because pecuniary payment to members of this House nominated by the Crown for deliberating and voting in Parliament, is, in my opinion, an innovation calculated to impair the independence, dignity, and character of the House of Lords.

The services for which the Speaker of the House may be paid, are not voting upon or discussing questions submitted to Parliament; as Speaker only, he can do neither, and is not necessarily a Peer. The Chairman of Committees is not nominated by the Crown, but elected by the House, and the duties imposed upon him are of a special nature, such as could not be performed by members of the House indiscriminately. But it is now proposed to pay certain Peers named by the Crown for executing those duties which, so long as the appellate jurisdiction is retained, devolve upon all Lords of Parliament. The Bill thus proclaims that the hereditary Peers are incompetent or unwilling to perform functions which they nevertheless desire to retain, and for the execution of which they seek to provide at the cost of the public revenue.

2ndly, Because whether by this Bill a prerogative long disused be revived, or a new power be accorded to the Crown (a question upon which high authorities in debate were divided), to enact the admission to Parliament of Peers for life, and to confine that admission to the sole case of remedying the inefficiency or consulting the ease of hereditary Peers, appears to me unjust, impolitic, and impossible. If a certain number of judges are by reason of



their professional eminence to sit in this House with life peerages, upon what ground can we exclude admirals, generals, and it may be others, who may have proved their capacity, and risen to high distinction in the public service, and whose presence and counsel might add wisdom and authority to our proceedings. If life peerages are to be created by Act of Parliament they cannot be restricted to Judges of Appeals.

3dly, Because the Bill wholly fails to establish such a supreme Court of Appeal as the opinion and the requirements of the country demand. It does not even secure the permanent existence of the Court it is designed to create; for it is obvious that, under the provisions of the Bill, four Peers for life may enjoy pensions and sit and vote in Parliament after they have ceased to act as Judges of Appeals. The occurrence of such a contingency is not very improbable, as the new Deputy Speakers, who must be Judges of experience, may be persons also of advanced age.

A suitor must still be in uncertainty regarding the composition of the appellate tribunal. An appeal may still be tried by several or virtually by one learned Judge, according to the varying capabilities, convenience, or caprice of the Lords.

4thly, Because a Bill thus faulty in principle and short-sighted in its enactments cannot, in my opinion, secure a satisfactory administration of the law, or uphold the dignity and authority of this House.

Ulick John De Burgh, Lord **Somerhill** (Marquis of Clanricarde).  
Arthur Hill Trevor, Viscount **Dungannon**, for the third and fourth reasons.

Because the creation of any Peers with a patent for life only, though limited to the number of four, and introduced for a special object and for special reasons, to sit and vote in the House of Lords, is an innovation of a dangerous character, and an invasion of those hereditary principles and privileges which have hitherto distinguished that branch of the Legislature, thereby establishing a precedent which may at no very distant period of time be acted upon and extended to the serious prejudice of the hereditary peerage, and the peril of the stability of the Throne.

Arthur Hill Trevor, Viscount **Dungannon**.  
William Thomas Le Poer Trench, Viscount **Clancarty** (Earl of Clancarty).

1st, Because it recognises the creation of peerages for life only, which by a recent resolution of the House have been declared illegal and unconstitutional.

2ndly, Because the conferring of life peerages would be subversive of the prescriptive title by which Peers of the Realm now sit as hereditary counsellors of the Crown, and though limited by the Bill to four, would be dangerous as a precedent for further innovations upon the constitution of the House, and is uncalled for by any necessity.

3rdly, Because the object of the Bill being to obtain 'for the hearing of appeals an increased number of Peers who have filled high judicial offices,' it appears an anomaly that for the admission to the House, of persons whose learning and abilities have been thus tested, and whose qualifications for the peerage are therefore of the highest order, dignities should be proposed inferior in point of estate to those held by other Peers.

4thly, Because the strict maintenance of the principle of hereditary succession in the peerage is essential to the independence and therefore to the due influence of the House of Lords in the great council of the nation.

5thly, Because the abandonment of the hereditary principle in the peerage may imperil its continuance in the Crown.

William Thomas Le Poer Trench, Viscount Clancarty (Earl of Clancarty).

Arthur Hill Trevor, Viscount Dungannon.

## DCCCCLXXV.

JUNE 16, 1856.

The Act (19 and 20 Victoria, cap. 47) for the incorporation and regulation of Joint Stock Companies and other associations, received the royal assent on the 14th of July. It was read a second time in the Lords on the 16th of June, by 18 to 5, the principal opposition being from the peers who sign the subjoined protest.

1st, Because the measure is wholly unnecessary, inasmuch as every concern has the means of limiting its liability by trading upon its own capital and not upon the borrowed capital of others. Liability is not necessarily incident to trading, or to the application of capital to the pursuits of industry, it is the result of taking credit or trading upon borrowed capital; limited liability, therefore,

is a measure of protection, not to the capitalist, great or small, but to the speculator, who wishes to trade for his own profit, but with the capital and at the risk of others.

2ndly, Because the principle of limited liability is antagonistic to and will probably prove seriously destructive of the sober and substantial virtues of the mercantile character; by weakening in the mind of the trader the sense of full responsibility for the consequences of all his actions, and limiting the obligation which now rests upon him, to return in full all that he has borrowed from others, the general tone of commercial morality must be deteriorated; by limiting the unfortunate consequences of failure, whilst no corresponding limitation is placed upon the gains which may attend success, the due equipoise between the restraints and the stimulants to enterprise and speculation, upon which depend the solidity and safety of the commercial system, must be disturbed; by enabling parties to put a fixed limit to the amount of possible loss, the chief incentive to caution or vigilance in the conduct of business will be taken away or seriously weakened, whilst by leaving the hope of gain unrestricted and indefinite, a gambling principle will be introduced into commercial transactions, and the risks of trade will assimilate themselves to the chances of the lottery wheel rather than to what they now are, the legitimate results of hopeful industry and cautious enterprise.

3rdly, Because the measure in its present form, unaccompanied by safeguards or any attempt to obviate the clear and acknowledged danger of abuses to which the principle of limited liability must be exposed, is not only in opposition to the Report of the Royal Commission appointed to inquire into the subject, but is contradictory to the practice and experience of every country in the world which has admitted the principle of limited liability into its commercial code. In every other country the privilege of limited liability is surrounded by restrictions which are intended to guard against the danger, first, of excessive and reckless enterprise, naturally generated by the sense of strict limitation of risk; and, second, of fraudulent abstraction, under the form of interest or profits, of that specific and fixed amount of capital which is alone appropriated as the security of the honest creditor. These restrictions indicate the universal conviction of all other countries that against these sources of abuse it is necessary that some proper

safeguard be provided; if it be deemed impossible to render such safeguards efficient and satisfactory, the conclusion necessarily arises that a measure ought not to be persisted in which does not admit of effectual protection against injustice to the honest creditor and injury to the public interests.

4thly, Because the effect of the Bill will be to give legal protection and therefore to hold out moral encouragement to dishonest practices in trade.

Profits in trade consist of interest upon capital, remuneration for labour and skill, and premium of insurance on risk. In proportion as the risk in any business is great, profits are usually high; but of these high profits a large share is by every honest trader set aside as the premium reserved against high risks. An unfortunate tradesman coming before the Bankruptcy Court would not be very leniently dealt with, should it appear that, carrying on a very riskful business, he had year by year spent all the great apparent profits, making no reserve out of them to meet the high risks he was incurring. Now, this is the very practice which this Bill directly sanctions, and therefore encourages.

The object of the measure is to enable concerns to limit their liability to a certain fixed sum, which has no reference to the varying magnitude of the risks which they incur, or to the high profits which, through those risks, they are appropriating to themselves, but not reserving for the honest protection of their creditors.

They are, in fact, appropriating and misapplying the premium of insurance, which, under the form of high profits they year by year receive, and in this immoral course they will have the authority and sanction of the Bill.

5thly, Because the tendency of the measure must be to encourage and promote the transference of capital from trading concerns now constituted and conducted with the caution and prudence which the sense of unlimited liability necessarily generates, to Joint Stock Companies, trading with small paid-up capital, and embarking under the protection of limited liability upon risks which no person would otherwise venture to encounter. When loss occurs a heavy portion of it will be made to fall upon the unfortunate creditor, who deserves our sympathy, while the adventurers, who ought to be the victims of their own reckless

speculations, will remain comparatively safe under the ægis of limited liability. Meanwhile the sober calculations and legitimate transactions of real trade will give way to a general spirit of speculation, in hazardous enterprises, and jobbing in shares,—a state of things of which the history of 1824 and 1825 affords a practical illustration, and at the same time holds out a warning example.

6thly, Because many very important advantages arise from the high moral character and commercial credit founded upon the full and punctual discharge of all its obligations which this country at present enjoys throughout the world. If the effect of the measure shall be, as is predicted by its supporters, to restrict rather than to increase credit, by filling the community with a mass of concerns notoriously undeserving of public confidence, the consequence must be serious injury to our commercial character abroad, a diminution of the confidence which other countries repose in the engagements of our merchants and traders, an interruption to the ease and freedom with which all our trading intercourse with the world is at present conducted, and in the end absolute pecuniary loss to the country.

7thly, Because the measure is singularly inappropriate to the present state of this country as regards capital and enterprise. There is abundance of capital in this country; we are the lenders of our surplus capital to every nation in the world; any sudden demand, any new opening for speculation, is at once supplied with inexhaustible funds; whilst we are subject to the frequent recurrence of periods of undue and dangerous inflation of credit and speculation. When these periods occur the tendency of the measure must be to extend and intensify these evils, by giving facility for the wide-spread introduction of Joint Stock Companies, reckless in their procedure because protected by limited liability, and filling the community with the instruments of gambling in the form of shares upon which little or nothing has been paid up. The real want of the country is, competent and duly qualified men (in whom confidence is duly blended with caution, and the spirit of mercantile enterprise is regulated by experience and the sense of responsibility), to wield successfully the vast resources of capital and credit which the country is prepared to place at their command.

The evil to the correction of which the Bill is apparently

directed, namely, insufficient supply of capital to meet the demands of industry and enterprise, does not in fact exist, whilst the real difficulty is one which legislation cannot effectually remedy.

8thly, Because the period chosen for the introduction of this measure is peculiarly unfavourable to the safety of the experiment. After a long continued heavy drain of the precious metals from this country, the reflux has apparently commenced. A great accumulation of bullion may be reasonably anticipated. Under such circumstances, credit and a blind spirit of speculation are always developed to a dangerous extent. On the present occasion this danger will be rendered more formidable by the effect (the character and extent of which is yet to be ascertained) of the recent extraordinary discoveries of gold. The time is therefore approaching, according to all probability, at which the prudence and firmness of the community will, through the natural course of events, be subjected to a severe trial.

At such a moment it is eminently inexpedient and dangerous to introduce a change in the law seriously affecting the mutual relation of the debtor and creditor interest, and which must, in the first instance at least, exercise a powerful influence on credit and speculation. Important changes of the laws, which affect our monetary or commercial system, however sound may be the principles on which they rest, are almost invariably followed by rapid and excessive development, leading to temporary but serious embarrassment.

The crisis of 1825 was preceded by, and was intimately connected with, the rapid development of the warehousing system which resulted from the Acts passed in 1822.

The crisis of 1837-9 was closely connected with the sudden and excessive expansion of the Joint Stock Banking system which occurred in the years immediately preceding.

The crisis of 1847 followed closely upon the extensive reduction of important duties introduced by Sir R. Peel, and the sudden outburst of the railway system.

Experience therefore compels us to anticipate a similar crisis as the necessary result of the first development of that great change in our monetary and commercial system which is involved in this abrupt and unqualified introduction of the principle of limited liability.

If this crisis occurs simultaneously with the effect of a strong influx of the precious metals on the return of peace, and of the recent extraordinary addition to the total amount of the precious metals through the gold discoveries, the firmness and prudence of the country may be subjected to a trial too powerful to be withstood, and an artificial expansion of credit may ensue, causing monetary embarrassment and great mercantile disasters.

Samuel Jones Loyd, Lord Overstone.

Thomas Spring Rice, Lord Monteagle of Brandon.

## DCCCLXXVI, DCCCLXXVII.

JULY 21, 1856.

By 19 and 20 Victoria, cap. 115, the Bishops of London and Durham were permitted to retire from their sees, receiving respectively annual incomes of £6,000 and £4,500, to be paid by the Ecclesiastical Commissioners out of their common fund. On its third reading, Lord Redesdale proposed to defer the Bill for three months, a motion supported by the Bishop of Oxford on the ground that the pension was a simoniacal contract. The third reading was, however, carried by 26 to 15. See Hansard, Third Series, vol. cxliii, p. 1094.

The following protests were entered.

1st, Because by the Act of 26th Henry VIII, cap. 14, sections 1, 2, 3, 4, 5, 6, and 7, her Majesty may, by her royal letters patent, at the instance of any bishop, out of two spiritual persons, being learned and of good conversation, appoint a titular bishop for each diocese, in aid of the several bishops, for a time to be limited by them, and such suffragan bishops may lawfully be paid by them out of their several revenues.

2ndly, Because any Act of Parliament on the subject of resignations and pensions of bishops should be first considered (as it is in the nature of a money bill) in the honourable the House of Commons, and should provide for the case of all living and future archbishops and bishops and incumbents, and might therein incorporate an Act similar to 52nd George III, cap. 62 (which applies solely to Ireland) for England and Wales.

Thomas Denman, Lord Denman.

1st, Because the Bill is one of an abstract and personal character, framed to meet the case of two individual bishops, and not one of a general and comprehensive nature.

2ndly, Because the Bill was introduced at so late a period of the Session as to render any discussion, as regards either its principle or the consequences it might involve by establishing an inconvenient and mischievous precedent, impossible.

3rdly, Because no serious evils to either diocese, or to the Church in general, could reasonably be apprehended from allowing matters to continue in their present condition a few months longer, when ample time would be afforded for the proper framing and full consideration of a general measure of relief calculated to prove essentially beneficial to the interests of the Church and the extension of sound religion.

4thly, Because the sees of London and Durham are not at the present moment the only instance in which dioceses are deprived of the benefit of the active services of their bishop through age or infirmity ; that such dioceses have an equal claim for consideration with those of London and Durham : therefore a Bill specially introduced to meet the case of two individual bishops is unjust in principle, dangerous in practice, mischievous in example, and calculated to impede rather than accelerate the progress of any future useful and comprehensive measure.

Arthur Hill Trevor, Viscount **Dungannon**.

Thomas Denman, Lord **Denman**, for the first, third, and fourth reasons.

## DCCCLXXVIII.

JUNE 23, 1857.

The Divorce and Matrimonial Causes Bill, 20 and 21 Victoria, cap. 85, was originated in the Lords, the second reading being carried, on the 19th of May, by 47 to 18. For the debate see Hansard, Third Series, vol. cxlv, p. 483. The Bill went into Committee on the 23rd of June. The first division was taken on a motion of Lord Redesdale, the effect of which would have been, had it been accepted, to destroy the Bill. This proposal was rejected by 91 to 34. The next proposal was that of Lord Hutchinson (Earl of Donoughmore), the intention of which was to put both sexes on an exactly similar footing. This proposal was rejected without a division, and the following protest was inserted.

1st, Because the effect of rejecting this amendment will be to confine the dissolution of marriage upon the adultery of the husband to the four cases stated in the Bill, which we consider to be not only inexpedient, but, as contrasted with the relief upon the adultery of the wife, partial and unjust.



2ndly, Because, as the clause is framed, although the husband should be living in the most open and notorious adultery, and should even bring his mistress into the family residence, insulting the wife by her presence, and should endeavour by ill-usage to compel her to submit to this disgrace, such a case would not come within its provisions.

3rdly, Because the adultery of the husband, accompanied with the commission of the greatest crimes, and even the most infamous vices, would not entitle the wife to relief under this clause.

4thly, Because the adultery of the husband, although coupled with his condemnation to penal servitude, even for life, and the consequent degradation and misery of the wife, would not, under the provisions of this Bill, enable her to obtain a dissolution of her marriage.

5thly, Because many other cases of similar injustice and hardship are excluded from relief under this clause.

6thly, Because to allow a divorce for the adultery of the wife, and to refuse it in these and other cases of adultery by the husband, coupled with acts of deep injury inflicted upon the wife, is manifestly unjust.

7thly, Because, although the adultery of the wife may lead to the imposing a spurious offspring on the husband, and entitle him to a divorce for a reason which would not apply to the case of adultery by the husband, other circumstances may and frequently do occur in connexion with the adultery of the husband, giving the wife an equal claim to this remedy.

8thly, Because no distinction is made in Scripture between the case of the man and of the woman in the commission of adultery. The sin is the same in both—both are included under the same prohibition.

9thly, Because the whole tendency and spirit of the Christian religion is manifestly calculated to raise women to equal rights and equal responsibilities with men. 'It has,' in the words of an eminent writer on general law (Chief Justice Story), 'elevated woman to the rank and dignity of an equal, instead of being an humble companion or a devoted slave of her husband;' and accordingly we find that as Christianity extended itself, and its influence was brought to bear upon social and civil affairs, so the condition of woman was improved, and her rights to protection and

redress were acknowledged. With respect to marriage and divorce the rule of the Roman Catholic Church applies to both sexes equally, while all Protestant Legislatures (except our own), in declaring that marriage may be dissolved for the cause of adultery, have accorded to the wife the same rights and remedies as to the husband.

10thly, Because by our ecclesiastical law (the only law at present applicable to this subject), the same judgment is pronounced in the case of adultery, whether the crime be committed by the husband or the wife ; and there appears to us no reason why, in extending the remedy, the principle should be changed.

11thly, Because as to the objection that the extension of the law to cases of adultery by the husband will give occasion to a great number of suits for divorce, we think such apprehension is altogether groundless. The proceedings can originate only with the wife, and she has, both as to feeling and interest, so much at stake, so much to relinquish which must be most dear to her, that we think there is little fear of her resorting to this remedy except in extreme cases, and after all hope of amendment has ceased.

12thly, Because by the law of Scotland the adultery of the husband with respect to divorce is placed on the same footing with the adultery of the wife. This law is found to be attended with no inconvenience. The evidence upon the subject is above all exception, and we deem it most desirable that laws which so deeply affect the social and moral condition of the people should, in contiguous parts of the same Empire, be in accordance with each other.

Richard John Hely Hutchinson, Viscount **Hutchinson** (Earl of Donoughmore).

Leicester Fitzgerald Charles Stanhope, Earl of **Harrington**.

John Copley, Lord **Lyndhurst**.

James Talbot, Lord **Talbot de Malahide**.

Somerset Richard Lowry Corry, Earl of **Belmore**.

## DCCCLXXIX.

JUNE 23, 1857.

Lord Lyndhurst then moved to insert certain words, the effect of which would be to give the wife right to divorce after wilful desertion on the part of the husband for five years or upwards. The motion was negatived, and the following protest was inserted.

1st, Because the contract of marriage is the most solemn

engagement into which a man can enter, and in which he promises to love, comfort, and honour the woman, and keep her under all circumstances of sickness or of health, and adhere to her as long as they shall both live.

2ndly, Because the purposes of this engagement, as deduced from Scripture, are of the deepest interest and importance—viz. for the birth of children to be brought up in the love and fear of God, for a remedy against sin, and for mutual society, help, and comfort, both in prosperity and adversity.

3rdly, Because by wilful desertion not only is this sacred promise impiously violated, but all the purposes for which this ordinance of God was instituted are wholly frustrated. Even in the most ordinary contract the breach of it on the one side puts an end to the obligation on the other, and we see no reason why a different rule should be applied to the contract of marriage, and more especially in a case destructive of the entire objects of the union. It appears to us to be contrary to all principle, and most unjust, that the husband should be permitted to set at nought an engagement followed, as it must be, by such consequences, and that the woman should continue to be bound by it.

4thly, Because we feel strongly the extreme cruelty of such conduct towards the deserted wife, in the utter disappointment of all her confident expectations of happiness from the promised love, comfort, and society of her husband, and leaving her without hope to the contemplation of a long, dreary, and desolate future.

5thly, Because divorce from this cause is justified as scriptural by the highest ecclesiastical authorities. It is well known that at the Reformation the subject was anxiously and carefully considered by prelates and divines eminent for learning and piety, and that they came to the conclusion that wilful desertion was a scriptural ground for divorce. We find the names of Archbishop Cranmer, of the Bishops of London, of Winchester, Ely, Exeter, and others, of Latimer, Parker, &c., of Peter Martyr, Martin Bucer, Bezar, Luther, Melancthon, Calvin, &c., among those who maintained this opinion, and which was adopted by the whole body of Protestants on the continent of Europe. Accordingly, this has been the acknowledged doctrine of all their churches to the present day. We find the same doctrine expressly stated and adopted in the 8th Article on Divorce in the *Reformatio Legum Ecclesiasticarum*,

compiled under the authority of Henry VIII and Edward VI, which body of laws, although it did not receive the confirmation of the Crown, in consequence of the early and unexpected death of King Edward, has always, as the commissioners on the law of divorce, in their report, justly observe, been considered of great authority. We also find that at a more recent period a right reverend prelate, eminent for learning and talents (Cozens, bishop of Durham), in his celebrated argument delivered in this House in the case of Lord Roos, maintained the same opinion. His words are these:—‘The promise of constancy in the marriage ceremony does not extend to tolerating adultery or malicious desertion, which dissolve the marriage.’

6thly, Because, by the law of Scotland, wilful desertion, as in all the Protestant churches on the Continent, is considered to be a scriptural ground for divorce, and the law in this respect is regarded by all the first authorities in that country, not only to be free from inconvenience, but as just and highly beneficial. We further deem it to be most desirable that upon such a subject as marriage and divorce, affecting as it does the whole social system, the same law should, as far as practicable, prevail in both parts of the Kingdom, and the more so as continued experience has shown the great inconvenience occasioned by the difference and anomalies of the two systems.

7thly, Because, as to the objections to the proposed extension of this measure on the ground of its tendency to demoralize society, this is not only disproved by the example of Scotland, but a careful examination of the state of society in Roman Catholic countries will, we think, lead to the conclusion that the principle of the indissolubility of marriage is far less favourable to morality than the opposite doctrine, accompanied with a cautious exercise of the power of divorce in such extreme cases as those of adultery and malicious desertion.

8thly, Because, as to what is urged with reference to the law of our ecclesiastical courts, we answer that the object of the present Bill throughout is to amend that law, and to render it more consistent with reason and justice; and, with respect to the Church of England, we will merely repeat what we find stated in the argument of the learned prelate to which we have already referred, viz. that ‘we cannot see why they are to be styled the

Church of England who join with the Council of Trent rather than those who join with all the Reformed Churches, and plead against the canon of the Church of Rome, which hath laid an anathema upon us if we do not agree with them.'

John Copley, Lord **Lyndhurst**.

Richard John Hely Hutchinson, Viscount **Hutchinson** (Earl of Donoughmore).

### DCCCLXXX, DCCCLXXXI.

JUNE 23, 1857.

In the course of the debate on the Divorce Bill, Lord Wensleydale moved to omit the fifty-fifth clause in the original Bill. The motive of the proposal can be gathered from the second of the subjoined protests.

1st, Because many noble Lords supported the fifty-fifth clause of the Bill solely on account of a power of imprisonment (not imperatively but discretionally to be acted on) being contained in some part of the Bill.

2ndly, Because a jury is more likely to obtain the confidence of suitors (who may possibly not even wish for a divorce) than the judges of the newly constituted Court.

3rdly, Because by an amendment of the practice of the Courts of Common Law counsel may be heard in support of the fair fame and interest of wives accused of adultery.

4thly, Because the Vexatious Suits Bill (if passed into a law) will tend more than has ever heretofore been practicable to prevent frivolous charges from being brought forward.

5thly, Because the action for criminal conversation is strictly analogous to the action for loss of services in actions on the case for seduction.

6thly, Because in all actions for assault her Majesty's subjects can proceed both civilly and criminally in all cases, whether of a common or of an aggravated nature, and ought to have equal rights under this Bill.

Thomas Denman, Lord **Denman**.

1st, Because the abolition of the action for criminal conversation would cause a great anomaly in the law of England, which has hitherto been perfect in one respect at least, as it provides a remedy

for an injury to every legal right. If a man has his estate taken from him wrongfully, he may be restored to the possession of it; if a specific chattel, he may recover it in specie, by a recent improvement in law, rendering that remedy more effective; he may in some cases compel a specific performance of a contract; but in all others the law gives a compensation in money only, for it is impossible in the nature of things to give any other.

2ndly, Because to deny this, the only possible remedy for the grievous injury to a husband in the loss of the right to the society of his wife, and her assistance in his domestic affairs and the education of his children, on the ground that it is irreparable, would be most unjust; and the other reason assigned that it would be disgraceful in the husband to receive the price of his own and his wife's dishonour is a misapplication of terms, as it treats the sum recovered by law as if it had been the subject of a bargain with the adulterer.

3rdly, Because the same inaccurate reasoning would apply to many other injuries of a similar nature incapable of pecuniary estimate, actions for atrocious libels, for infamous slanders, for assaults attended with contumely and insult, and for the seduction of a daughter; all of which are capable of the same opprobrious designation of disgraceful bargain with the wrong-doer.

4thly, Because the reason assigned that sometimes the wife may be totally ignorant of the charge made by the husband against the adulterer, and it would be unjust that she should have no opportunity of vindicating herself, is insufficient, as such a case is scarcely possible, and laws are to be made for matters of frequent, not rare occurrence, and the remedy, if one should be required, would be, not to deprive the husband of all remedy for his violated right, but to provide that he should give notice to the wife, and that she should be at liberty to intervene for her own interest.

5thly, Because the husband has almost always interests of a material nature and capable of pecuniary estimate that are injured by the adultery. In the higher classes of life, a wife may have a sum settled to her separate use, the benefit of which the husband would in part enjoy. In the lower, the earnings of the wife in an art or trade may contribute to the maintenance of the husband and his family. In almost all, the wife has duties to perform in superintending the household and educating the children which have

analogy to those of a servant, and in the lower classes closely resemble them. All these are properly the subject of pecuniary compensation, and yet the husband is to be deprived of it altogether, and that for the benefit of the adulteress.

6thly, Because the maintenance of this action tends to the repression of adultery, the repeal of it to its increase.

James Parke, Lord Wensleydale.

## DCCCLXXXII—DCCCLXXXIV.

JUNE 23, 1857.

The following protests are directed against the principle of the Divorce Bill, which was finally carried by 46 to 25.

Because the Bill authorizes the intermarriage of the adulterous parties, but does not relieve the clergy from the legal obligation of celebrating matrimony in such cases with the office of the Church. Yet that office expressly declares that holy matrimony, instituted by God in the time of man's innocency, signifies the mystical union between Christ and his Church, whereas adultery is constantly spoken of in Holy Scripture, as symbolizing apostacy from that Church and the violation of that blessed union. In contempt of this sacred truth the Bill not only sanctions the marriage of parties whose ability to marry is founded altogether on their being adulterers, but it also compels the clergy to marry them in profanation of the most sacred words of Scripture, and with perversion of the most solemn truths of the Gospel. For, even if the use of the office could be tolerated in the marriage of adulterous parties who are repentant of their adultery, yet no security is given or can be given by any Statute that the parties concerned are really penitent; and yet those parties have by their adultery incurred the Church sentence of excommunication, which, if duly pronounced, would render them incapable of being married with the rites of the Church. If the circumstances of the times prevent the due exercise of the Church's discipline, yet the least that might be expected from a Christian legislature is that it be careful to protect the State from the guilt of countenancing such fearful profaneness, and to respect the conscientious feelings of all faithful Churchmen, who cannot but be shocked by such wanton trifling with the gravest spiritual matters; and especially of the clergy,

who, if the Bill shall finally pass, will not be able to perform what belongs to their office without violating their sense of duty to God ; and cannot refuse to perform it without incurring the heavy penalties of human law. The enactment is the more grievous because there already exists a mode of contracting matrimony between such parties, which not only leaves the rights and sanctions of the Church unviolated, but would also relieve the parties themselves, if truly penitent and sensible of their own degradation, from the anguish and misery which they must feel in repeating vows to God which they have already broken, and hearing pronounced over them the curse of God against all who have, as they already have, 'put asunder those whom God has joined together.'

Henry Philpotts, Bishop of **Exeter**.

1st, Because the Bill contains provisions authorizing in certain cases divorce *a Vinculo Matrimonii* of Christian marriage, and is thus in direct opposition to what our Lord has declared both in His own words and in the unvarying teaching of His Church.

2ndly, Because the harmony and stability of the family relations upon which the well-being of the State is ultimately based, will be unsettled and impaired by the facilities which are offered for divorce.

Henry Granville Howard, Duke of **Norfolk** (Earl Marshal).

William Bernard Petre, Lord **Petre**.

Henry Valentine Stafford Jerningham, Lord **Stafford**.

George Charles Mostyn, Lord **Vaux** of Harrowden.

Henry Benedict Arundell, Lord **Arundell** of Wardour.

Thomas Alexander Fraser, Lord **Lovat**.

1st, Because, in opposition to the word of God, which is embodied in the law of our Church, the Bill sanctions the re-marriage of a divorced husband or wife during the lifetime of the divorced wife or husband.

2ndly, Because in direct contradiction to the plain teaching of our Saviour Christ, the divorced adulteress is permitted to re-marry during the lifetime of her husband.

3rdly, Because the Court of Divorce provided by the Bill will, as a general rule, be accessible only to the rich ; and thus what is



treated in the Bill as the right of every injured husband is by it withheld from the poor; and such legislation will almost inevitably lead to committing the decision of causes involving the sentence of divorce *a Vinculo Matrimonii* to many and inferior local courts, and so to the risk of the wide spread of collusive adultery.

4thly, Because the permission of intermarriage, as granted in the Bill, to the parties through whose adultery the divorce has been caused, tends to promote a dissolution of manners through that large class of society in which no conventional law severely punishes the divorced woman.

5thly, Because the whole tendency of the Bill is to dissolve the sanctions and endanger the purity of God's great institution of family life throughout this land.

6thly, Because it will lead to the clergy of the Church of England being required to pronounce the blessing of Almighty God on unions condemned by their Church, and repugnant, as many of them believe, to the direct letter of Holy Writ, and to employ at the unions founded on dissolved marriages, from the Marriage Service of the Church of England, language which is in its plain sense inconsistent with the dissolubility of marriage.

Samuel Wilberforce, Bishop of **Oxford**.

Francis Godolphin D'Arcy Osborne, Duke of **Leeds**, for the first, second, third, and sixth reasons.

Walter Kerr Hamilton, Bishop of **Salisbury**.

Horatio Nelson, Earl **Nelson**.

John Thomas Freeman Mitford, Lord **Redesdale**.

Otway O'Connor Cuffe, Earl of **Desart**.

Arthur Hill Trevor, Viscount **Dungannon**, for the third, fourth, fifth, and sixth reasons.

DCCCLXXXV.

JUNE 26, 1857.

Certain towns and districts in Ireland were liable to the payment of sums of money in aid of the stipends of ministers belonging to the Irish Establishment. The process of collection had been modified by 17 and 18 Victoria, cap. 11. By 20 and 21 Victoria, cap. 8, it was provided that these payments should thenceforth cease and determine, compensation being made to the clergy out of the funds in the hands of the Irish Ecclesiastical Commission. The Bill originated in the Commons, where it was read a second time on the 19th of May, by 313 to 174, Mr. Napier (Dublin University) moving its rejection. It had been the subject of an annual

motion by Mr. Fagan (member for Cork city). The tax was first imposed by an Act of the Irish Parliament in 1665. The motion of rejection in the Lords was moved by Lord Clancarty, but the Bill was carried by 23 to 7. The following protest was inserted.

1st, Because the Act of 17 and 18 Charles II, cap. 7, for the kingdom of Ireland, was applicable to every city and corporate town in Ireland, and created a moderate charge on the houses of all Protestants as well as Roman Catholics, subject to which charge, ever since the passing of the said Act, all such property has been dealt with and valued; and it would have been better again to change the collectors and mode of collection by Act of Parliament, providing for a redemption of the said tax, than to put the law into operation, and then suspend all proceedings against defaulters who are more favoured by an exemption from this tax than those who have obeyed the law.

2ndly, Because the withdrawal of this payment will render it more difficult to obtain the consent of Protestants to any future payment by the State of Roman Catholic priests (if such a measure should be hereafter contemplated), and may tend to strengthen the opposition to the Maynooth Grant, and thereby greatly retard the enlightenment of such priests whose conduct at elections and whose influence as to Scripture readers is such as better educated men probably would not exhibit, and which conduct and influence ought not to be encouraged and increased by concessions as a direct reward for disobedience to the law.

3rdly, Because this Act was passed in a House consisting of fewer members thereof than are together usually elsewhere considered sufficient to constitute a deliberative Assembly, and therefore it fails to establish the full evidence of hearty good-will to the Irish people which should accompany every measure relating to them.

Thomas Denman, Lord Denman.

DCCCLXXXVI.

JULY 2, 1857.

After the passage of the Divorce Bill in the Lords, Lord Redesdale introduced a Bill, the object of which was to provide that when parties had been divorced for adultery, such adulterous persons should be married

at a registry office. The Lord Chancellor moved that the Bill be read that day six months, a motion which was carried by 62 to 23.

The following protest was inserted.

Because many of the clergy conscientiously object to declare in the words of the Marriage Service the union of a divorced adulteress with her paramour 'holy matrimony, signifying the mystical union betwixt Christ and His Church,' and to pronounce over such union our blessed Lord's words, 'those whom God hath joined together let no man put asunder'; and it is unjust to leave them subject to penalties for refusing to be guilty of what they believe to be an act of impiety, when relief can be afforded without injury to any principle or person in the manner proposed by this Bill.

John Thomas Freeman Mitford, Lord Redesdale.

## DCCCLXXXVII.

JUNE 11, 1858.

By several Acts of Parliament, beginning with 9 Anne, cap. 5, a property qualification was demanded from members of Parliament, viz. £300 a year from the members for boroughs, £600 from those for counties. Originally the income must have been derived from land, but by 1 and 2 Victoria, cap. 48, provision was made for qualifications by personal property. There were, however, many exceptions. It was not required from Scotch members. The eldest sons of peers, and of persons qualified to sit as knights for the shire were exempt, as also the members for the Universities. It was perfectly notorious that false qualifications were common, and that members made the declaration that they were qualified with the full knowledge that they were not so. Latterly, however, a Mr. Edward Glover, who had been returned from Beverley, had been unseated for want of a proper qualification, and was then (June 1858) in prison for having made a false declaration on the subject. A Bill, therefore, to abolish these qualifications was introduced by Mr. Locke King (East Surrey), and was carried into Committee by 222 to 109. The following protest was inserted at the last stage, Lord Denman having threatened to divide the House on the Bill. The Act is 21 and 22 Victoria, cap. 26.

1st, Because the passing of this Bill without the retaining any qualification whatever, (of land or houses, or the substituting that of money or property in the funds, or stock of the East India Company, or railway shares,) is a far more sweeping measure than is needed to correct the anomalies of the property qualification law.

2ndly, Because such change as may suddenly be effected by the Act now in progress would only be necessary if the evasion of the

late law had been always carried on with impunity, and had been practised by very many former and present members of the House of Commons; whereas the law has but lately been vindicated, and the great majority of the former and present members of the House of Commons had at the time of their elections and still have legal qualifications.

3rdly, Because the qualification of property in land or houses having been requisite for members for boroughs as well as counties, it would have been better to render the ownership of a money or funded property, or of British or Indian stock or railway shares, a qualification of burgesses to sit for boroughs, and a qualification of an estate, lease, tenancy, or reversion to land or to a title, a qualification for knights of the shire, than to reduce the qualification both of burgesses and knights below that of the electors who may return them.

4thly, Because the possession of a moderate sum beyond incumbrances, such as is required in the case of persons to be intrusted with the collection or distribution of money, is necessary as a safeguard in those who have to legislate extensively as to the rights, property, liberties, and lives of the electors and people of Great Britain and Ireland, and her Majesty's colonial possessions, as well as with regard to the affairs of the East India Company.

5thly, Because in the event of any moderate qualification being soon hereafter found to be advisable by the legislators and electors and people of Great Britain and Ireland, it might be supposed that the writer of this protest could not advocate such a measure without inconsistency, if he had agreed to the passing of the present measure without expressing his opinion of its possible disadvantages.

Thomas Denman, Lord Denman.

DCCCLXXXVIII.

JUNE 12, 1858.

By 21 and 22 Victoria, cap. 48, one oath was substituted for the oaths of allegiance, supremacy, and abjuration, provision was made for the omission of all words indicating an oath in the case of Quakers and others, and for the substitution of an affirmation, and the oath was modified in the case of Jews. By cap. 49 of the same year, each House was empowered to modify its oath by omitting the words 'on the true faith of a Christian' (see above, Protest DCXCIII), while Jews were disabled from

holding certain offices, and from exercising ecclesiastical patronage, which was to devolve, in the case of their possessing it, on the Archbishop of Canterbury. The Jews Bill was read a third time by 33 to 13, and after some ineffectual attempts had been made to enlarge and increase their disabilities, the following protest was entered. The Lords insisted on certain amendments which they made to the Oaths Bill, and which may be found in the Journals, vol. xc, p. 296.

1st, Because this House has twice in the present Session affirmed the principle that no one ought to be admitted to sit and vote in Parliament without first declaring his faith in Christ.

2ndly, Because the reasons which this House has sent to the Commons for insisting on their amendments to 'The Oaths Bill' appear to me sound and unanswerable, and I accept them as the protest of the House against the abandonment of that principle.

3rdly, Because this Bill permits either House to abandon that principle at pleasure.

4thly, Because, as neither House of Parliament acknowledges any control over its proceedings but that which long usage has established, it is dangerous to depart in any way from the ancient rule which requires that the alteration of any existing law or statute shall be made by Bill passing through known and regulated stages, and requiring the joint assent of both Houses; and this Bill, which permits each House singly to determine for itself by resolution, revocable at pleasure, a question which both Houses have for several years debated legislatively without coming to agreement thereon, is framed on a principle contrary to the recognized practice of Parliament, and establishes a precedent which may hereafter be productive of evil consequences.

John Thomas Freeman Mitford, Lord **Redesdale**.

Charles Marsham, Earl of **Romney**.

Thomas Denman, Lord **Denman**, for the fourth reason.

James Lonsdale, Bishop of **Lichfield**, for the first, second, and third reasons.

Robert Bickersteth, Bishop of **Ripon**, for the first, second, and third reasons.

Randolph Stewart, Lord **Stewart of Garlies** (Earl of Galloway).

William Samuel Draper Best, Lord **Wynford**, for the first, second, and third reasons.

George Guy Greville, Earl of **Brooke and Warwick**.

## DCCCLXXXIX.

JULY 23, 1858.

On the 12th of February, 1858, Lord Palmerston moved the first reading of the Government of India Bill, the object of that Bill being the transference of the government of that country from the Company to the Crown. Lord Palmerston passed in review the history of the relations of the Company to Parliament in a speech which may be found in Hansard, Third Series, vol. cxlviii, p. 1276. He was met by Mr. Thomas Baring, who moved, 'that it is not at present expedient to legislate for the Government of India.' After three nights' debate, leave to read the Bill was carried by 145 (318 to 173). On the 9th of July the order for the second reading of the Bill was withdrawn, on the ground that the question was one which lay above the range of party feelings and party differences, and that the wishes of the nation must be considered. On the 26th of March, however, a second Bill was introduced by the Chancellor of the Exchequer (Mr. Disraeli), Hansard, vol. cxlix, p. 818, and was read a first time. The second reading, which had been fixed for the 20th of April, was deferred, and the second Bill was subsequently dropped. On the 26th of April Mr. Disraeli moved that the House will, on Friday next (the 30th of April), resolve itself into a Committee to consider 16 and 17 Victoria, cap. 95. After an attempt to postpone the motion by a resolution closely resembling that of Mr. Baring, and which was defeated by 447 to 57, the House affirmed six resolutions, which became the basis of Bill No. 3, read for the first time on the 17th of June, and (after long debates, occupying nearly half of Hansard, vol. cli) a third time on the 8th of July. It was read a first time in the Lords on the 9th of July, and after long debate, several amendments being made, was passed on the 23rd of July. After these amendments had been discussed and settled, the Bill received the royal assent on the 2nd of August (21 and 22 Victoria, cap. 106).

The following protest was entered on that stage of the proceedings, when the Lords passed the Bill, with the amendmenst.

1st, Because the Bill establishes a home administration for India at once inefficient, unconstitutional, and expensive.

2ndly, Because the council it gives to the Secretary of State is too numerous for either deliberation or action, while the parties composing it consist mainly of the very individuals who were engaged in conducting that form of government which the Bill itself condemns and supersedes.

3rdly, Because the measure provides that a moiety of the council shall be chosen on the vicious and long-condemned principle of self-election.

4thly, Because the members for council are virtually appointed for life, and besides being endowed with large salaries and ample

pensions, are moreover paid by a great patronage, for the dispensation of which they are wholly irresponsible.

5thly, Because the government provided by this Bill, partaking largely of the character and composition of its condemned predecessor, holds out little hope that the misgovernment which has driven the people of India into rebellion will be abandoned.

6thly, Because the members constituting the council of India, while drawing large salaries and enjoying extensive patronage, are, contrary to parliamentary precedent and sound principle, not prohibited from holding other offices of emolument, or engaging in commercial transactions, thus interfering with their efficiency as public servants, and exposing them to the suspicion of jobbing and corruption.

7thly, Because the council constituted by the Bill, cumbrous, expensive, and inefficient, can have no other effect than either to thwart the Secretary of State, or to screen him from parliamentary responsibility, while efficient and experienced under-secretaries would have afforded more effectual and constitutional advice and assistance in the discharge of his duties.

George Thomas Keppel, Earl of Albemarle.

## DCCCXC.

MAY 14, 1860.

On the 30th of January, 1860, the Lord Chancellor (Lord Campbell) presented seven bills, the general object of which was the consolidation of various statutes enacted against criminal acts. The last of these was 'A Bill to consolidate and amend the statute law of England and Ireland relating to offences against the person.' The Bill passed the Lords without a division, and reached a second reading in the Commons on the 11th of June. It did not however proceed beyond that stage. The following protest was inserted by Lord Westmeath on the refusal of the House to entertain an amendment of his.

1st, Because by the thirty-third clause of the Bill it is provided that placing wood, stone, or other thing on a railway, with intent to endanger the safety of passengers, shall be punishable on conviction merely with penal servitude for life; and the refusal to admit, on motion, words 'that should death ensue it shall be adjudged to be murder' seems unreasonable. The plea of objection to this, that

the law is sufficient, seems to me to have no force, for by the second clause of the Bill it legislates for the crime of murder in these terms: 'whosoever shall be convicted of murder shall suffer death as a felon,' which is a practical admission of its necessity in the thirty-third clause. Thus the refusal to amend the thirty-third clause as suggested stands in the light of a delusion, if not a snare, the more so as the Bill was introduced to the House as a compendium to consolidate and amend all existing provisions of offences against the person, and to embrace all desirable improvements. Thus the clause confuses what the Bill professes to simplify. It appears to me that the offence which is the subject-matter of the thirty-third clause must almost of necessity result in the murder, not of one person only, but of many.

2ndly, Because by the thirty-sixth clause of the Bill the penalty of a misdemeanor is to be incurred by the drivers of all public carriages who shall by wanton or furious driving or racing maim or injure any person, while the rejection of the provision to extend the same to the driving of all carriages whatsoever is an unreasonable reserve, made on the plea that by the common law sufficient redress may be had. This appears to be a conclusion inapplicable, as redress for such like injury should not be confined to pecuniary compensation; but even for that there is no public officer called a public prosecutor to initiate such proceedings for poor or needy or ignorant persons aggrieved. But the public wrong should be vindicated also where death or injury is inflicted by wanton or furious driving. That it is not so the returns before the House of 134 persons killed and 1,827 persons maimed during the last twenty-six months within the metropolis too plainly show. It appears to me to be a dereliction of duty on the part of the Secretary of State for the Home Department, that with the means of obtaining the information contained in these returns no amendment of the law has been proposed to Parliament to restrain and diminish the recurrence of such offences, the present provisions in the Metropolitan Police Act and the City Police Act not extending beyond the maximum of a pecuniary fine of 40s.; 40s. fine for wanton and furious driving, which experience shows is impotent. It appears to me that a provident government would propose to legislate against the person of an offender inflicting personal injury upon another, instead of making a frivolous amercement upon his



purse, which can always be paid for him by another, even by a participator in the offence charged against him.

George Thomas John Nugent, Marquis of Westmeath.

## DCCCXCI, DCCCXCII.

JUNE 11, 1860.

On the 26th of March, 1860, the second reading of the Refreshment Houses and Wine Licences Bill was read on the motion of the Chancellor of the Exchequer (Mr. Gladstone),—Hansard, Third Series, vol. clvii, p. 1302. Several divisions were taken on the Bill during its passage through the Commons, chiefly by the advocates of the licensed victuallers. The second reading was carried by 267 to 193. It was read in the Lords for the first time on the 4th of June, and passed on the 11th of June, receiving the royal assent on the 14th of June. (23 and 24 Victoria, cap. 27.)

It elicited the following protests on the third reading.

1st, Because the Refreshment Houses and Wine Licences Bill of 1860 is dishonoured by its connexion with the eating-houses.

2ndly, Because this Bill will tend to convert eating-houses, which are innocent places of recreation and refreshment, into resorts of vice like the beerhouses.

3rdly, Because the measure is opposed to the wishes of the labouring classes, who are in favour of a prohibitory permissive Bill, enabling the ratepayers to decide in their localities for or against the sale of strong liquors in public houses.

4thly, Because the licensed drinking-house system has been denounced by the House of Lords in 1743 as to gin, and in 1850 as to beer, and by the House of Commons in 1834 as to spirits, wine, and beer.

5thly, Because it is criminal to sanction a traffic that leads the labouring man into temptation, that poisons his brain with alcohol, that injures his health, beggars his family, lessens his productive power, and diminishes the nation's wealth.

6thly, Because the drinking habits of the people are rated by the Judges as the great source of crime.

7thly, Because the people of England, Ireland, and Scotland, and chiefly the working classes, tax themselves fifty-seven millions yearly for beer, wine, spirits, and tobacco; the latter two contain no

nourishment, and they are all the fertile source of disease, vice, and crime.

8thly, Because all experience proves that the greater the number of public houses, where strong liquors are sold, the greater the drunkenness and crimes.

9thly, Because in 1743 the bishops denounced the Gin Bill with matchless eloquence, but this social and immoral Wine Bill was not debated by the bishops, who were absent, or passive at their posts.

Leicester Fitzgerald Charles Stanhope, Earl of Harrington.  
Thomas Denman, Lord Denman, for the fourth and sixth reasons.

1st, Because it is inexpedient to pass a Bill which can only be temporary, whilst a new and general regulation is rendered by it more than ever necessary for all houses, whether licensed by the magistrates or the excise, for the sale of wine and spirits, and beer, or of beer only.

2ndly, Because the veto pointed out by this Bill is difficult to be carried out, and has no reference to the opinions of a neighbourhood as to the necessity for the number of refreshment houses required therein; whilst it takes away from the magistrates the power which they at present (in part) possess of controlling the sale of foreign wines.

3rdly, Because the notice of application for licences for refreshment houses being placed on Church doors is a reference to a subject entirely different from that of religion.

4thly, Because while this Bill defines 'refreshment houses' as houses open between nine at night and five in the morning, it requires every vendor of eatables who may close his house as early as eleven at night to take out a 'refreshment house' licence, and to be subject to domiciliary visits from the police (without any complaint from any informer or from the neighbours), until five o'clock in the morning.

5thly, Because the retailing of wine of all descriptions, Spanish, Portuguese, French, or German, in any description of shop, without any limit as to number, will interfere with ordinary branches of trade, and cause great interruptions in the ordinary course of business, and a great waste of time, whilst those who have a

character for importing pure wines will find it very difficult to maintain their ground against unlimited competition.

Thomas Denman, Lord Denman.

Arthur Hill Trevor, Viscount Dungannon.

### DCCCXCIII.

JUNE 15, 1860.

By 23 and 24 Victoria, cap. 31, the seventh clause of 21 and 22 George III, cap. 16, restraining the Bank of Ireland from lending money on the mortgage or sale of lands, &c., is repealed. The Bill was passed without opposition in the Commons, and with no debate in the Lords, except on the second reading (Hansard, Third Series, vol. clviii, p. 1947).

The following protest was entered against the third reading.

Because no evidence or argument has been adduced to prove that the restraint imposed on the Bank of Ireland, prohibiting the loan of money on mortgage or other landed security, has been productive of injury to that establishment, or of public or private inconvenience, and has thus justified its repeal.

Because this restraint forming a part of the original constitution of the Bank of Ireland, and steadily maintained to the present time during a period of about eighty years, has been shown to be consistent with a system of successful and prudent management, upholding public and private credit, not only in prosperous times but during periods of commercial pressure and of political disquiet.

Because even during the crisis which produced the bank restriction that measure was recommended, adopted, and condemned in Ireland less in reference to dangers or exigencies affecting Irish interests, than as a consequence of the suspension of cash payments enacted by the Legislature of Great Britain.

Because the repeal of this restraint upon loans and mortgages of land, which has so long subsisted, cannot but be interpreted as giving the sanction of the Legislature to the investment in landed securities of the capital of banks issuing promissory notes payable on demand; a practice which has been condemned as contrary to sound principle, and therefore open to serious objection.

Because the ultimate security of the promissory notes payable on demand is insufficient for the public interests, unless their immediate convertibility is also provided for, and for this reason the

practice of locking-up capital thus rendered unavailable to answer pressing demands is inconsistent with the true theory of banking, or with its safe application.

Because if this repeal of the wholesome restraint of the Irish Bank Charter Act, 21 and 22 George III, cap. 16, had taken place during the existence of the agricultural distress consequent upon the failure of crops, it can hardly be doubted that a pressure so urgent would have been cast on the Bank of Ireland as would have led them to unwise and dangerous advances, adding to the existing agricultural distress the further risks attendant on an imprudent extension of the circulation.

Because the danger of the principle involved in this Bill becomes greater when it is proposed that it should be applied to the central and most important bank in Ireland, which, as holding the public accounts of the Treasury and Exchequer, as paying the dividends, and intrusted with the public remittances from England, stands in all these important respects in the position of a national bank, and is liable, if deviating from its present more prudent course, to risk the certain convertibility of its notes by investments not available in the immediate discharge of its legitimate banking engagements.

Thomas Spring Rice, Lord Monteagle of Brandon.

## DCCCXCIV.

AUGUST 20, 1860.

The Session was drawing to a close, and the forms of the House rendered it difficult to carry a Bill on which the Government laid stress, viz. the Savings' Banks and Friendly Societies Investment Bill. The Duke of Argyll therefore proposed that the House should agree to a resolution declaring the Bill to be of such urgency that its immediate consideration was necessary, arguing that the Bill was analogous to a Money Bill, in the case of which such urgency was allowed. For the constitutional question involved, see Hansard, Third Series, vol. clx, pp. 1347, 1551.

The following protest was inserted.

Because, unless the orders for regulating of the discharge of the business of this House are adhered to with steadfastness and impartiality, they become traps for the unwary, and aggravate the mischiefs and public inconvenience against the occurrence of which such orders were intended to provide a fitting safeguard.

Because, the Sessional Order which fixes a day after which it is provided that no Bill shall be read a second time in this House, except Bills of Aid or Supply, or Bills on which the House shall have determined that the circumstances making such legislation expedient are either of such recent occurrence or such real urgency as to render the immediate consideration of the same necessary, was adopted after full consideration in 1854, and has been continued for the last seven consecutive years, without opposition or serious complaint, but, on the contrary, greatly to the benefit of the public service.

Because a departure from that order, unless in cases arising clearly within its specified exceptions, will render the proceedings of this House vague and uncertain, will at the close of the Session subject them to the discretionary power of the Government of the day, and will deprive them of orders of that impartiality, weight, and authority which are required to maintain the honour and dignity of the House, and to secure the public against hasty or ill-considered legislation.

Because the Bill regulating the investments for Savings Banks and Friendly Societies has been before Parliament during a period of nearly seven months, and has not been dealt with by its framers or by Parliament as a Bill of real urgency, neither is it founded on any circumstance of recent occurrence.

Because it is not a Bill of Aid or Supply, nor can it be classed as a Money Bill, without the establishment of a new and dangerous precedent calculated to impose dangerous trammels on the free legislation of this House.

Because this Bill has not been brought up to this House till the 3rd day of August, when the period for reading Bills a second time in the House had elapsed.

Because a resolution having been moved on the 13th of August to suspend the Sessional Order prohibiting the second reading of all Bills after the 29th of July, and to permit the second reading of the Savings Banks Investment Bill, such resolution was negatived after debate, and the order for reading the Bill a second time was discharged.

Because no further proceeding was taken in relation to this Bill till the 16th instant, when a notice was given of an intention to move on the following day to reverse the former decision of the

House, by suspending the Sessional Order, which it had been determined should not be suspended, and declaring the urgency of a Bill which the House had previously declined to affirm.

Because such a proceeding tends to destroy all confidence in the maintenance of a Sessional Order adopted after full deliberation, without a dissentient voice, and reasserted in seven successive Sessions with the same unanimity of opinion.

Because no precedent or authority has been adduced to justify so extraordinary a deviation from the accustomed practice of the House, the maintenance of which is essential to its dignity, and a departure from which can hardly fail to lessen the weight and authority which ought to accompany all its decisions.

Thomas Spring Rice, Lord Monteagle of Brandon.

## DCCCXCV.

AUGUST 20, 1860.

The Refreshment Houses and Wine Licences Bill (Ireland) was read a third time and passed this day. It is 23 and 24 Victoria, cap. 107.

The following protest was inserted.

1st, Because although the last clause of the Refreshment and Wine Licences Act, passed on the 14th of June last, states that it shall not apply to Ireland, yet this Bill in most of its provisions is a counterpart of that measure.

2ndly, Because, although the Act 1 William IV, cap. 64, being 'An Act to permit the general sale of beer and cyder by retail in England,' does not extend to Ireland, and hitherto in Ireland every licence for the sale of spirits and beer (which includes permission to sell wine) has been granted subject to a discretionary prohibition by the magistrates, subject to appeal, yet this Bill deprives the magistrates of Ireland of a great portion of their discretionary power, and will prevent them from beneficially restricting the number of houses to be separately licensed for the sale of wine, and from preventing retail winehouses being as numerous as the beerhouses in England.

3rdly, Because a mere restricted veto is substituted for the prohibition contained in the fourth section of 4th William IV (which Act is referred to in the forty-third section of this Bill),

which, in addition to the grounds of prohibition contained in this Act, should be introduced into any permanent measure.

4thly, Also, for the first, second, fourth (with the alteration of the hour 'five' to 'seven'), and fifth reasons contained in my protest of the 11th of June, 1860, against the Refreshment Houses and Wine Licences Bill.

5thly, Because the twentieth section of 4th William IV has not been in any way applied to this Bill, and by it, or a modification of it, all respectable inhabitants might assist the police in suppressing drunkenness and punishing drunkards.

6thly, Because clause 40 of the English Act is entirely omitted from this Bill, and might even have been improved upon herein, by rendering all persons found drunk in the street, whether (otherwise than by being drunk) indecent or not, liable to an increased fine, and to imprisonment.

7thly, Because in any general measure the Justices or Divisional Justices or Court to which appeal is made should grant all licences, as they are far more fit to do than the excise, whose chief duty is to increase the revenue, or than the police, who, without any duties as to licences, may have sufficient responsibility in detecting drunkenness, and in helping to convict drunkards and keepers of ill-conducted houses, but more so as such magistrates adjudicate on all cases of evils and crimes produced by drunkenness.

8thly, Because while coroners in England, according to usage, and a report of a Select Committee of the House of Commons, retain and will retain the initiative in all inquests (whether paid by fees or salary), the magistracy of Ireland, most of them unpaid, and without any interest in granting or withholding licences, except as to the preservation of order, and as to the diminishing the temptations to and punishments for drunkenness, ought to have at least as much confidence reposed in them as in any other public servants.

9thly, Because the feeling against the proposed and lately enacted measure is every day increasing in England.

Thomas Denman, Lord Denman.

## DCCCXCVI.

AUGUST 25, 1860.

The Irish Tenure and Improvement of Land Bill, 23 and 24 Victoria, cap. 153, contains sixty-two clauses, and received the royal assent on the 28th of August. The Lords inserted certain amendments in the Bill, with which the Commons disagreed. A proposal to insist on these amendments was negatived on one of them by 7 to 6. It may be observed that the amendments were inserted chiefly at the instance of the Irish peers.

The following protest was inserted.

1st, Because the amendments to this Bill are proposed for adoption at the very close of the Session, setting aside the ordinary forms of Parliament, which direct the printing of such amendments before they are taken into consideration, and this without adequate notice being given of their import and legal effect, and in the absence of many of those peers whose local knowledge and experience would entitle them to assist the judgment of the House.

2ndly, Because some of the proposed alterations are absolute reversals of previous decisions pronounced by a full House, after due notice and careful deliberation, and such last inconsistent resolutions are pressed forward at a time when the proposed enactments cannot possibly be made known in that part of the Empire to which this Bill exclusively applies, before obtaining the authority of law.

3rdly, Because legislation so hasty and unconsidered, forced upon the attention of the House at the closing days of the Session, renders all freedom of discussion impracticable, and withholds the means of passing a safe and deliberate judgment.

4thly, Because the force of these objections is made still more manifest if some of the changes made in the Bill are considered in detail :—

In the Bill as it left this House the ordinary leasing powers commonly entrusted to tenants for life and other parties, under the restraints of settlements, wills, and other legal instruments, were extended to a power of granting building terms for ninety-nine years, whilst by the Bill returned to this House this already extended leasing power has been indefinitely prolonged, and now includes an authority to grant leases for ever.



In the Bill as it left this House enactments were contained prescribing that houses to be hereafter built agreeably to its provisions should be of a description to promote the health, comfort, and accommodation of their inhabitants, and at the same time to guard against an unjust sacrifice of the rights of the reversioner: from the Bill returned these provisions have been rejected.

In the Bill as it left this House, while it was framed so as to promote the interests and secure the rights of the tenant, security was taken against the breach of covenants into which both parties had voluntarily entered: these securities have been expunged from the Bill as returned to this House.

5thly, Because it is to be apprehended if the course of proceeding which this House is now unfortunately called on to sanction and adopt be drawn into precedent, it will be found no less inconsistent with the ancient practice of Parliament than with the possibility of enacting wise and salutary laws.

Thomas Spring Rice, Lord Monteagle of Brandon.

## DCCCXCVII.

APRIL 29, 1861.

By 24 Victoria, cap. 14, the Post Office Savings Banks were established. The opposition to the Bill chiefly arose from those who thought the old system worked well, and that the trustees of the old Banks were not well used in setting up a rival system. The rate of interest fixed by the Bill was £2 10s. per cent., but the Treasury was permitted to raise the rate to £3 0s. 10d., the amount allowed to the old Savings Banks, but from the payment of which much loss had ensued. It was also alleged that the possession of such large deposits would give the administration an uncontrolled use of public funds.

The following protest was entered against the third reading.

1st, Because it is inexpedient, without deliberation and evidence, to transfer to the centralized authority of a revenue department, already charged with laborious and incompatible duties, functions which have been hitherto performed by independent trustees, acting gratuitously, freely appointed, and who, by their administration of the Savings Banks throughout the British Empire, have conferred a signal benefit on their country by encouraging habits of prudence, industry, and forethought.

2ndly, Because such a transfer cannot be made without implying

a mistrust in that system of self-government to which England owes so much prosperity and happiness, and her charities and voluntary institutions so much of their success, and whereby all classes of society, being united in the discharge of their local functions, are trained in habits of business and responsibility, and are thus fitted for the fulfilment of other and more weighty duties.

3rdly, Because this change is made without any clear and distinct explanation of the proposed system, or any estimate of its probable cost,—a cost which, whether supplied by Parliamentary grant or by a deduction from the interest payable on deposits, equally demands the most careful and jealous attention.

4thly, Because the proposed change is the less called for when it appears that, under the existing local management, the amount of deposits in Savings Banks and Friendly Societies has steadily augmented, and on the 28th of November, 1860, had reached the extraordinary sum of £43,298,320; and that a further sum of £768,275 had been pledged by the officers of the existing Savings Banks as a security for their faithful discharge of duty.

5thly, Because the Legislature, in passing its earlier laws for the regulation of Savings Banks, described the sole object of those institutions to be ‘the receipt of deposits for the benefit of the depositors, and the accumulation of so much of the interest as shall not be required by them;’ yet a practice has subsequently been introduced, and largely extended, by which the funds of Savings Banks have frequently been advanced to meet financial difficulties of the State, a power being conferred on the Executive Government described by high official authority as being ‘larger and more absolute than is required for the public service.’

6thly, Because these practices, condemned by high Parliamentary and official authorities, are not only left uncorrected by the present Bill, but are liable to be more largely and freely applied, by reason of the substitution of a revenue department for the more constitutional control of the existing boards of trustees.

7thly, Because no provision is made under this Bill for compensation or reward to the paid officers of the existing Savings Banks, however long and painful their services, and who will be liable to be turned adrift and replaced by the nominees of the Government.

8thly, Because the proposed system, brought altogether under the central authority of a revenue department, may, when dealing

with a capital of £43,298,320, facilitate and encourage the sale and purchase of public securities on account of Savings Banks in a manner to influence unduly the value of the Parliamentary stocks, and thus to affect injuriously both public and private credit.

gthly, Because, whilst it is not improbable that the agency of the Money Order department of the Post Office may be usefully employed in the mere remittance of the funds of Savings Banks as between the local trustees and the Commissioners for the reduction of the National Debt, no evidence or authority has been produced to justify the novel and objectionable principle on which the present Bill is founded.

Thomas Spring Rice, Lord **Monteagle of Brandon**.

## DCCCXCVIII.

JUNE 11, 1861.

The financial measures of 1861 were embodied in an Act, 24 Victoria, cap. 20. Under them the paper duty was repealed. Mr. Gladstone's speech introducing his budget was delivered on the 15th of April. (Hansard, Third Series, vol. clxii, p. 544.) The year before, the House of Lords had rejected the repeal of the paper duty, on the motion of Lord Monteagle, by 193 to 104, and a motion of Lord Fermoy (declaring that the action of the Lords 'was an encroachment on the rights and privileges of the House of Commons, and that it was therefore inconsistent on that House to adopt a practical measure for the vindication of its rights and privileges') was obviated by Lord Palmerston moving the previous question, and carrying it by 177 to 138. On the 11th of June, 1861, the Government measure was carried without a division, though debated on the second reading (see Hansard, vol. clxiii, p. 696), but the following protest was entered.

1st, Because, whilst it is the manifest duty of Parliament to relieve the people from all unnecessary burthens, yet reductions of taxation are justifiable only when consistent with the efficiency of the public service, with the maintenance of public credit, effected in strict accordance with constitutional principles, and with the independence and freedom of action of both branches of the Legislature.

2ndly, Because these indispensable conditions do not appear to have been sufficiently regarded or carefully adhered to in the Bill now before the House.

3rdly, Because neither our late experience, nor any statements made in debate, nor evidence produced in support of this Bill, afford sufficient proof that a surplus exists such as to justify Parliament in sacrificing £2,463,000 of net annual revenue, of which £1,330,000 is produced by the excise on paper; a duty steadily progressing during many successive years, thereby proving convincingly that neither the amount of the tax, nor yet the law under which it is collected, have arrested production, and whilst prohibitions, or the imposition by foreign states of export duties on the raw material, checks a natural fall of price, and the relief which otherwise might be given to the consumer.

4thly, Because it is the more unsafe to rely on the existence of an available surplus in the present year, justifying the abandonment of £2,463,000 of net annual revenue, when it is remembered that on the 10th of February, 1860, a surplus, then estimated at £454,000, was on the 15th of July converted into a deficiency of £1,286,000, and that the excess of expenditure over income has on the 31st of March, 1861, risen to the alarming amount of £2,558,384; a deficiency which would have been still greater had not (1st) the future receipts of revenue been anticipated by calling up duties on property, malt, and hops to the amount of £3,148,000; (2nd) the revenue been augmented by drafts on the exchequer balance to the amount of £1,300,000; (3rd) by applying to the public service unexpected repayments of debt from a foreign power; and also (4th) by the consequence of the decision of this House, in rejecting in 1860 the proposed repeal of the paper duties,—a decision made in the exercise of the undoubted rights and privileges of the House of Lords; and (lastly) the postponement of the payment of a debt of £1,000,000 due on Exchequer bonds.

5thly, Because it appears in a high degree improbable that during the present year (with a future surplus which the most sanguine have not estimated as exceeding £408,000, on an expenditure of £69,875,000), our financial resources can be restored to that credit which befits our dignity, or provides adequately for our national interests in the present state of the continents of North America and of Europe. We may be driven again to draw on our Exchequer balances; again to postpone the payment of our lawful debts when due, or to pay them with borrowed money. The property and war taxes may again be continued or augmented, and

yet, after resorting to these somewhat questionable expedients, services still unprovided for may require increased burthens. The commutation of the Stade duties, the increased interest on Exchequer bills which have too long remained at a discount, farther sums required for the interest of the loan for our national defences, will all demand the attention of Parliament, and require to be placed upon a more secure foundation than the promised remittances from China, or the still more uncertain anticipations of the state of the weather during the next harvest.

6thly, Because though it is proposed by the present Bill to repeal £1,133,000 per annum property tax, and £1,330,000 duties on paper, thus exhibiting a somewhat plausible equality in the apportionment of relief between direct and indirect taxation, yet this will be found on reflection to be an equality rather apparent than real; the first of these taxes being temporary, the latter permanent, and it hence appearing but too evident that any future national wants will be supplied by an increase and prolongation of the property tax, well described as fraught with 'political dangers leading to a conclusion that the income tax, though an admirable instrument for national purposes upon a great and national emergency, is a dangerous instrument in time of peace.' (Hansard's Debates, 3rd February, 1859.)

7thly, Because, in addition to the preceding objections to the Bill before us as arising from the present state of our finance, and the inadequacy of the promised surplus of £408,000, objections equally serious, though of a different character, may be urged against the form which the measure assumes, and the mode in which it has been prepared.

8thly, Because the freedom and independence with which the two Houses of Parliament are enabled to perform their respective duties are essential to the dignity of each, and have invariably been appealed to by the highest legal and parliamentary authorities as indispensable to the harmonious working of our Constitution.

9thly, Because, though the rules of Parliament which preclude the annexation of distinct and contrasted subjects, as tacks to Bills of Aid and Supply have been asserted and enforced by this House, yet it cannot be denied that precedents may be shown in which various financial measures have occasionally been united in one Bill,

without the raising of any objection in this House. This will be found exceptional in some cases, as in the consolidation and re-enactment of existing laws where no change is practically made in the amount of revenue raised; in others where the enactments embrace many thousand separate cases, which could not, without great public inconvenience, be dealt with in distinct Bills. Some of these instances appear to be grounded on the questionable argument of convenience only; some to be highly dangerous in principle; and in all it behoves this House to watch with the utmost vigilance all such measures, and to guard strictly and firmly against a violation of the principle laid down in their standing order, 27th April, 1699, reasserted on various subsequent occasions, and now forming an important part of the law and custom of Parliament, and declaring 'that the annexing of any clause or clauses to a Bill of Aid or Supply, the matter of which is foreign to and different from the matter of the said Bill of Aid and Supply, is unparliamentary, and tends to the destruction of the Government.

10thly, Because the same principle asserted in the standing orders of the Lords has received the most unqualified assent of high authorities in the Commons. In 1787 (Hansard's Parliamentary History, page 508), in relation to the proposal of blending two distinct subjects in one Bill, Mr. Fox stated, 'this would not only be a bad precedent for the Commons, but would as absolutely preclude the Lords from free debate as if the Commons had followed the example of Cromwell, and silenced a necessary and constitutional branch of the Legislature.' On a subsequent occasion the same high authority spoke 'of the difficulty in which the House of Lords would be placed by the blending of the two objects in one Bill;' adding, that 'instead of affording the Lords reason to complain of the Commons for narrowing their grounds both of debate and of voting, the House ought seriously to avoid giving cause of such complaint. (Parliamentary History, 1787.)

11thly, Because it cannot be urged, that although a Bill of Aid and Supply and a Bill for the repeal of a tax both relate to finance, they are therefore to be considered as identical in their parliamentary character, and fitting to be discussed in a combined rather than in a separate form. Practically, these Bills are opposite and antagonistic; the one grants, the other takes away; the one

adopts and recites the following preamble, which invariably distinguishes Bills of Aid and Supply from all other legislative proceedings:—‘We, your Majesty’s dutiful and loyal subjects, the Commons of the United Kingdom, toward making good the supply we have cheerfully granted, do humbly beseech you that it may be enacted; and be it enacted by the advice and consent of the Lords and Commons, and by the authority of the same,’ &c. &c.; a Bill for the repeal of duties, on the contrary, neither has nor logically or reasonably can have such a preamble. It would evidently be absurd to recite as a grant that which is a diminution of taxation. The assent of the Crown is also given to a Bill of Aid and Supply in the ancient form of ‘*La reine remercie ses bons sujets, accepte leur benevolence, et ainsi le veut.*’ To a Bill for the repeal of taxation the royal assent is given in the simpler but differing words of ‘*La reine le veut.*’

12thly, Because the usual course taken by successive Ministers and Houses of Parliament has been to deal with the repeals of taxes in separate Bills, and to send up the Bill for repealing taxation as a distinct measure. Of these precedents, the following examples may be referred to:—

In 1802, Property duty.

1822, Malt duty.

1824, Salt duty.

1830, Excise duty on beer.

” ” leather.

1831, ” printed cotton.

” ” candles.

1833, ” starch.

” ” tiles.

” House tax.

1836, Excise duty on stained paper.

1845, ” glass.

” ” auctions.

1850, ” bricks.

1851, Window tax.

1853, Excise duty on soap.

1855, Newspaper stamp duties.

13thly, Because a practice of combining in one legislative measure various and discordant subjects, more especially when the Bill

is one of Aid and Supply, cannot but produce some risk that such Bills may be dealt with as a whole, and possibly rejected in consequence of some partial objection; a result which, though strictly in conformity with the indisputable privileges of this House, may occasionally lead to public inconvenience, and to the danger of an interruption of that good understanding which it is of such importance to preserve unimpaired between the co-ordinate branches of the Legislature.

Thomas Spring Rice, Lord **Monteagle of Brandon**.  
William Willoughby Cole, Lord **Grinstead** (Earl of **Enniskillen**).  
Charles Cecil John Manners, Duke of **Rutland**.  
William Samuel Draper Best, Lord **Wynford**.  
Constantine Henry Phipps, Marquis of **Normanby**.  
George Charles Bingham, Earl of **Lucan**.  
Henry Howard Molyneux Herbert, Earl of **Carnarvon**.  
William Thomas Le Poer Trench, Viscount **Clancarty** (Earl of **Clancarty**).  
Leicester Fitzgerald Charles Stanhope, Earl of **Harrington**.  
Robert Bourke, Earl of **Mayo**.

## DCCCXCIX.

AUGUST 2, 1861.

A petition was presented from Lord Dundonald (Thomas Barnes Cochrane), son of Thomas, Earl Dundonald, praying the House to permit the evidence of the Dowager Countess, then residing at Boulogne, to be taken there, as her health was too infirm to permit her journey to England. The House agreed to the prayer of the petition, and the Consul at Boulogne, with Mr. Macqueen, Q.C., were allowed by the House to put nine questions, drawn up, and entered in the Journals, to the Dowager.

The following protest was entered against granting the prayer of the petition.

Because, as it appeared from the statements made by the counsel for the petitioner before the committee for privileges that no person has ever yet questioned the petitioner's right to the title of Earl of Dundonald, which was assumed by him immediately after his father's death, and as he has petitioned her Majesty as Earl of Dundonald, and her Majesty has been graciously pleased to refer the petition in which he so designates himself to this House, and as there is no right or privilege to which he is entitled as Earl of Dundonald which cannot be exercised by him although this House



shall not have declared him to be so entitled, and as there is no precedent for this House adjudicating upon and declaring any person's rights to any title under such circumstances, I am of opinion that it is inexpedient for the House to proceed to do so in the present case, or take any steps thereon.

John Thomas Freeman Mitford, Lord Redesdale.

## D C C C C.

AUGUST 2, 1861.

The borough of Sudbury had been disfranchised for bribery by 7 and 8 Victoria, cap. 53, and that of St. Alban's for the same offence by 15 and 16 Victoria, cap. 9. By 24 and 25 Victoria, cap. 112, their four seats were distributed thus:—the West Riding of York was divided into two sections, each to return two members, an additional member was given to South Lancashire, and Birkenhead was made a borough with one member. The Bill was debated fully in the Commons, no less than nine divisions having been taken on it. In the Lords, Lord Stratheden moved that it should be referred to a Select Committee, but withdrew his motion. He inserted the following protest on the motion that the Bill do pass.

1st, Because the third reading took place out of the order in which the Bill stood upon the notice paper, at a time when public business was not in any way expected, and not upon the motion of the minister in whose name the Bill stood, thus making it impossible for Peers who wished to do so to take any part on this final stage.

2ndly, Because a former stage, viz. the second reading, had been virtually annulled and moved *pro forma* only at an hour when by general admission it was not possible to go into debate, all consideration of the Bill being thus reduced to the single stage of going into Committee on the 29th of July.

3rdly, Because a resolution of the House has frequently declared, that at that period important measures cannot have the full deliberation which they merit.

4thly, Because a precedent has thus been formed for passing to the Statute Book a measure of organic change without the genuine and *bond fide* sanction of the House of Lords; and if such organic change as the public interest requires is now to be developed in a series of measures, and not included in a single scheme, the danger of such a precedent being often followed is apparent.

5thly, Because while the Bill has not had the *bond fide* sanction of the House of Lords, so neither has it had that of either party in the Commons, the Opposition and the Government in that House of Parliament having both declared in the course of the Session that the vacant seats ought to be otherwise distributed.

6thly, Because so long as these seats were vacant a notorious defect in the Reform Act might eventually be remedied, without increasing the numbers of the House of Commons, the defect in consequence of which since 1832 distinguished public men, against the wishes of the country, have been excluded from the Legislature, and which arises from the want of a corrective power in the State to return those whom the united body of the nation would have chosen, but who from local circumstances have not been chosen by any of the sections into which the country at a general election is divided.

7thly, Because the existence of such a vice in the Reform Act is convincingly established by the fact, that since 1832 Sir William Molesworth, Lord Macaulay, Lord Carlisle, Sir Edward Lytton, Mr. Bright, Mr. Cobden, Mr. Milner Gibson, the late Mr. Bernal, among others, have, after general elections, been kept out of Parliament, while the public could not be said in any of these cases to have either caused or sanctioned the exclusion.

8thly, Because to form any system by which the casual deficiencies of a general election might be afterwards removed, according to the interest and voice of the community, the four vacant seats, if not essential, were desirable, as the space to build on; while they are now appropriated in a manner which no necessity dictated, which meets no popular demand, which takes away no public inconvenience, and bestows no kind of new advantage on the empire.

9thly, Because the defect to some remedy of which these seats might have been devoted leads to serious results beyond a palpable anomaly. An anomaly of this kind occurs when a State, however firm in its opinion that given individuals ought to serve it in its Representative Assembly, has no power to return them if they have been outvoted by a single local body at a general election, and that upon an issue joined not of merit, but of party.

10thly, Because before 1832 the State had the power in question by a medium it is not now desirable to call again into existence,

the Opposition and the Government possessing at that time the means of bringing into Parliament distinguished men whom the general election had excluded, by the boroughs which each had at its disposal. It is only, therefore, necessary that an important end which was gained for many years by objectionable means should be now secured by means which are legitimate.

11thly, Because, whatever means are now resorted to to invest the State with this necessary power since the vacant seats have been appropriated, such means can only be applied by increasing the number of the House of Commons beyond a point which is generally felt to be excessive. In order, therefore, to remove one evil in our representative arrangements, it becomes essential in some degree to aggravate another, a dilemma into which States may be forced by various events, but which it is against the rules of policy to choose and to create by doubtful legislation.

12thly, Because among the results of the evil it has thus become more difficult to remedy, the State may be and has been in this manner deprived of official talent it requires, but which can only be exerted in conjunction with a seat in Parliament. Beyond this, until the country has the power, after a general election, of calling to its Representative Assembly those whom it deems erroneously excluded, public life must always be embraced with the risk at any moment of an arbitrary exile, such as no other career involves. It cannot, therefore, be embraced by men whom prudence governs, and whom the State would most desire to draw into its service. In effect it is confined to the few whose property or family insure a permanent connexion with a county or a borough; and at every change in the Reform Act these few are likely to become fewer.

13thly, Because, apart from the public wrong these vacant seats might have been devoted to removing, a Bill which increases the number of the county at the expense of the borough members, and forms constituencies open to none but persons locally connected with them, in place of constituencies at which all public men might equally be candidates, appears retrograde in character, and ought not to have been passed without a greater show of argument to vindicate it.

14thly, Because the gift of two seats to the West Riding of Yorkshire, not to come into use until a dissolution, is an uncalled-for sacrifice of the deliberative freedom which might have otherwise

employed them, and is no present gain to the locality it favours. The right of Parliament to deal with these two seats without fruit to any interest or place or party is abandoned; and neither precedent nor policy imposed upon the Legislature the duty of appropriating the four seats in one measure, becoming vacant, as they did, at different times, and under different Acts of Parliament.

William Frederic Campbell, Lord Stratheden and Campbell.

### DCCCCI.

MAY 2, 1865.

By the law of England, no railway company was liable to be declared bankrupt, and by the same law no shareholder was liable to more than the amount unpaid on his shares. But under the construction of 20 and 21 Victoria, cap. 60, it appeared that Irish railways were liable to both contingencies. In order to obviate this risk, a Bill under the sanction of the law officers of the Crown was brought into the Commons and passed. When the Bill reached the Lords it was referred to a Select Committee, which struck out a part of the second clause, declaring the limited liability of shareholders, on the ground that such a relief was retrospective. The Commons declined to agree with the amendment, and reinserted the clause. When the Bill came back to the Lords, the motion not to insist on the amendment to which the Commons disagree was carried by 43 to 33, and the following protest was inserted.

Because the effect of the Bill without the amendments introduced by this House is to deprive persons who have instituted legal proceedings for the purpose of asserting their rights of the benefit of the remedies to which they were entitled.

Robert Monsey Rolfe, Lord Cranworth.

Somerset Henry Lowry Corry, Earl of Belmore.

Richard John Hely Hutchinson, Lord Hutchinson (Earl of Donoughmore).

Frederic Thesiger, Lord Chelmsford.

### DCCCCII.

MAY 2, 1865.

A Bill, subsequently 28 and 29 Victoria, cap. 48, for the purpose of building courts of justice, designed by cap. 49 to occupy a site on the north side of the Strand, came into Committee on this day in the Lords. Lord Redesdale proposed that the Bill be referred to a Select Committee,

for reasons which will be found in Hansard, Third Series, vol. clxxviii, p. 1308. His motion was lost by 55 to 32, and the following protest was inserted.

1st, Because although the provision made for the cost of the site and of the buildings is limited to £1,500,000, there is no information given to the House which affords any assurance that this calculation has been made on any reliable estimates.

2ndly, Because, the proposed site is unsuited for the architectural effect of a building which, on account of the purposes to which it is to be applied, and the expenditure to be lavished upon it, ought to be of great magnificence, on account of the fall of ground from North to South being so considerable that on two sides uniformity of elevation cannot be preserved, while the frontage as at present proposed will be on the East, opposite to mean houses in Bell Yard, and on the North to wretched buildings in Yeates and Horseshoe Courts, and the back of Lincoln's Inn in Carey Street.

3rdly, Because the above statement as to the boundaries of the site now to be acquired at the enormous cost of from £700,000 to £750,000, and the want of all decent approaches to it from any quarter but the Strand, which is already one of the most overcrowded thoroughfares in the Metropolis, must satisfy all who give any attention to the subject that much more property must be purchased, and a far larger expenditure incurred than that already provided for.

4thly, Because these facts prove that the site is in many respects an unsuitable one, while it is notorious that others can be procured affording excellent general accommodation at less than half the cost, and free from all the above-mentioned objections.

5thly, Because it is proposed to tax the suitors in certain Courts in order to raise part of the money required; whereas if any is to be obtained from those using the new Courts it would be far more properly supplied by a percentage levied on solicitors' bills, counsels' fees, and judges' salaries, these being the persons for whose proposed convenience this extravagant outlay is most particularly demanded, while the necessity for any such charge would be avoided by a reduction in the expense of the work consequent on the selection of a cheaper site.

6thly, Because it appears to me that it is the duty of the House to inquire into these matters, and to be satisfied as to the probable

cost of the proposed Courts, and of any new approaches to the same which may be necessary in connexion therewith, before it sanctions a scheme which calls for so large and so uncertain an expenditure.

• John Thomas Freeman Mitford, Lord Redesdale.

### DCCCCIII, DCCCCIV.

MAY 8, 1865.

The following protests, entered against the passing of the Courts of Justice Concentration (Site) Bill, which was read a third time on this day, explain themselves. The debate is in Hansard, Third Series, vol. clxxvii, p. 1584. Lord Redesdale's motion was to leave out the words 'Bridges over or' in the fourteenth clause of the Act 28 and 29 Victoria, cap. 49.

1st, Because it is the duty of the State to provide fit Courts for the administration of justice, whilst the Bills just passed provide the principal means of erecting the new Courts out of the Suitors Fund of the Court of Chancery and by taxation of the Common Law suitors. Taxation ought never to be imposed for that purpose. As to the Equity Fund, the first Bill directly takes one million stock for the scheme, and subsequently takes indirectly about half a million more by authorising the Lord Chancellor out of that fund to purchase or redeem certain compensations which are charged on the Funds, and by assigning to the Consolidated Fund the value of the late Masters' offices which are held by the Lord Chancellor as a trustee for the Suitors Fund, although the section (22) which transfers the property from the Suitors to the Consolidated Fund contains no statement of such an intention.

2ndly, Because no portion of the Suitors Fund can be appropriated by Parliament for any other object than the benefit of the suitors in equity, without a violation of the rights of property, and indirectly repealing divers Acts of Parliament, to which no reference is made in the Bills. The funds in question have arisen from monies belonging to the suitors in Chancery, which were paid into Court from time to time without any direction to invest them, and the Court, with the aid of Parliament, which was required only because the consent of all the owners of the monies could not be obtained, invested them, and the dividends, with fees of Court, form the fund in question. Until now, the Government never ventured

to treat it as a public fund, or to appropriate it to purposes not connected with the ease and benefit of the suitors. In the many Acts of Parliament relating to the fund, not a syllable can be found to sanction Parliament in treating this as a public fund. The principal belonged to the suitors; to whom but them should the produce of it belong? The Court of Chancery held it as a fund dedicated to the purposes of the suitors as a class. From the 12th of George II to the 15th and 16th of the Queen, a period of more than a century, some ten or twelve Acts of Parliament recognise the fund as belonging to the suitors; the sums not expended for purposes required for the ease and benefit of the suitors were carried to accounts in the name of the Accountant-General for the benefit and better security of the suitors in Chancery. It is not disputed that the fund, if required, is liable to the suitors as a class; and indeed, their right is fully admitted by the provision in the Building Act for providing out of the Consolidated Fund the means of any insufficiency of the cash of the suitors to satisfy their demands, but this provision is improperly confined to the million of stock directly appropriated by the Bill. The Chancery Commissioners, in their Report, state that it is true that in times past this fund has been exclusively employed for the benefit of the suitors in Chancery, but this may have been because the exigency of the moment rendered such an application thereof necessary or expedient. Circumstances, however, have now changed, new and varied exigencies have arisen, and the wants of the present day urgently call for a different application! This statement may be left without a comment.

3rdly, Because, as already stated, there is no foundation for the claim of the Government to treat the fund as public property. The statement in the Building Bill is that the fund stands to the credit of 'an account of securities purchased with surplus interest arising from securities carried to an account of monies placed out for the benefit and better security of the suitors of the High Court of Chancery,' which admission seems conclusive against the right of the public; but the Bill adds, 'which has arisen from the profit of investments made under the authority of Parliament at the risk of the public of unemployed cash balances paid into Court on account of individual suitors.' This is the first time since the institution of the fund that it has been

pretended that the investments were at the risk of the public, and therefore giving to the public a right to the fund. For this statement there is not the slightest foundation. Not the public indemnity, but the ease or the benefit and security of the suitors, are the objects declared in every Act of Parliament. The public incurred no risk, and therefore is not entitled to the benefits claimed. It is truly said that no individual suitor is entitled to the fund, but it does not follow that the suitors as a class are not entitled to it. All the applications of the fund for the last century and a half prove this, for they were all for the benefit of them as a class. The ownership of the fund is strikingly exemplified by the great settlement in 1852 (15 and 16 Victoria, cap. 87), followed by the Act of 1853 (16 and 17 Victoria, cap. 98), of which latter Act the Chancery Commissioners do not appear to have been aware. These Acts made all the funds in question at once applicable to the relief and benefit of the suitor, and the unclaimed Funds were added to the others, although subject to be made good if claimed hereafter; and now the present measure, without referring to this important, and as I thought, final settlement, repeals and destroys it. In 1852, so far was Parliament from claiming the fund as public property, that it relieved it from charges to the amount of £9,000 a year, which had been imposed upon it by Parliament for the salaries of some of the equity judges. This was done on the ground stated, 'that it was expedient that the salaries of all the Judges of the Court of Chancery should be paid out of the Consolidated Fund, instead of out of the interest of the securities purchased with the cash of the suitors.' This relieved the fund for the benefit of the suitors, and was a just and proper provision, but utterly inconsistent with the claim now set up in the name of the public, for if the Suitors Fund did belong to the public it might properly be applied to the payments from which it was relieved, or, indeed, be expended on the Thames Embankment, or any other public work. The analogy attempted to be set up that the Court of Chancery is a banker, and therefore is entitled to the profit, will not bear examination, and if it could, still the profit would belong to the Court, and the Court, with the aid of the Accountant-General, is the guardian and not the owner of the property, to which the public can have no claim. The Lord Chancellor, if a trustee, without authority invested the trust



money and made a profit of it, would be bound to compel him to pay it to the owners of the capital, although they had given no directions for its investment, with costs. All the risk would fall on the trustee; all the benefit would accrue to his *cestui que* trust. This will be a painful rule to follow, now that the Court itself holds the interest of the fund belonging to the suitors, which was invested without their consent, not to belong to them as a class. Those who rely upon the fact that no individual suitor can claim the fund, and deny the right of the suitors as a class, yet maintain the right of the public, that is the nation, to the fund. Has any individual citizen any claim to any portion of it?

4thly, Because, although no objection could be made to the erection of new Courts of Justice for the Equity Judges, if necessary, at the expense of the Suitors Fund, yet no such necessity exists beyond a very limited application of that fund. There are six Equity Courts:—(1) the Lord Chancellor's; (2) the Lords Justices'; (3) the senior Vice-Chancellor's; (4) and (5) the two Courts of the other Vice-Chancellors; and (6) the Rolls Court; the first five Courts are all in Lincoln's Inn. The first three of them are good Courts, and require none others to be substituted for them; the other two are unfit for Courts of Justice, and would long since have been replaced by new and good ones, if the present scheme had not been introduced; Lincoln's Inn was prepared to expend £100,000 on new Courts, and to require from the Suitors Fund only £4,000 a year, including the present payments from that fund to the Inn, and a plan was made and laid with a Bill for effectuating that object before this House; it is therefore wholly unnecessary to build on the proposed site any new Courts for the Equity Judges. In Lincoln's Inn the Courts have long been established. The suitors, the bar, and the solicitors have the benefit of the garden and the open grounds. If left where they are they would not interfere with the proposed concentration of the Courts, for the Common Law Courts would be concentrated on the site proposed, and the Courts of Equity would be within a few yards of them. The Rolls Court is a fine and excellent Court. The Master of the Rolls objects to be removed; more especially as the great Record Court of which he is the head is connected with his Court, and he has constant occasion to resort to it. There is no reason

why his Court should be removed. The distance between it and the proposed Courts is too trifling to form a reason for the removal. Nevertheless, all these Courts are to be removed at the expense of the Suitors Fund. Concentration after all will not be effected. The Nisi Prius Courts are left at Guildhall, the Court of Bankruptcy in Basinghall Street, the Central Criminal Court in the Old Bailey, the Land Transfer Court, the Charity Commissioners, and the Inclosure Commissioners are to remain where they are, and some of them at a great expense to the public. The still more important Courts of Appeal in this House and in the Privy Council Court are, of course, left undisturbed. Two Courts are to be removed; one, the Lunacy Commissioners Court, which ought not to be taken into the turmoil of all the Courts, and the other, the Divorce Court, which for obvious reasons should be kept as far as possible from the seat of the other Courts. The suitor will be astonished to find how little benefit the concentration will afford him; an injury, in all probability it will inflict on him; for at present the Equity Bar confine themselves as much as may be to one Court, but when their Courts are all under one roof, the suitor may have to regret the absence of his leading counsel, or of his junior, when he requires the services of both.

5thly, Because the Bills will take one million and a half of stock from the Equity Suitors Fund for the purpose of building new Law Courts and unnecessarily rebuilding Equity Courts, thus depriving the suitors of £40,000 or £50,000 a year revenue, and thus stopping the future relief of suitors in equity from fees of Court which ought to be reduced. The Commissioners appointed to inquire into this subject, in their Report of July 1862, were of opinion that if the Suitors Fund was taken, the Consolidated Fund should provide £40,000 a year to furnish the suitors with funds to meet their claims—a Parliamentary indemnity. But so far from this being adopted in the Government Bills, they first take one million of stock, which reduces the income of the Suitors Fund some £40,000 a year, and then the Lord Chancellor is to draw upon the fund for another £400,000 or £500,000 stock in order to relieve the fund from the compensations to which it is liable, or in other words to supply the annual revenue of which the appropriation of the one million will deprive it. If the suitors had still their funds in their own possession the repurchase or redemption of

the compensations charged on them might be a legitimate transaction. But one million of their stock is first taken from them absolutely freed from the charges which affect all the suitors funds. If the remainder of the funds taken under section 16 were left to the suitors they would be able to pay off the compositions till they fell in by the deaths of the annuitants, and when and as they died the fund itself would remain for the suitor's benefit clear of charge. The scheme is to take a million of the capital, and then, foreseeing that the interest would be required to meet the claims upon it, nearly half a million more of capital is taken to clear the million in the hands of the Government from its liabilities, and thus the suitors are stripped of all their funds.

The charge on the Consolidated Fund as an indemnity is a poor security. Instead of having their own funds in the hands of their own officers to answer their demands, they must resort to the Treasury as claimants on the public funds, and, of course, the relief from Court fees and other benefits from the fund are at an end. The injustice to the suitors in equity is further shown. There is a sum of £88,254 5s. in the power of the Government, and of which they receive the dividends, which arose from fees in the Common Law Courts. Now, the Commissioners in their Report state, 'that this Common Law Fund is wholly free and unappropriated, and there cannot be a more legitimate application of it than towards the completion of a scheme from which the suitors at Common Law will derive the most essential advantage. Yet the Government retain this large sum as public money, and take, of course, the like sum from the Equity Suitors Fund, to build Courts for the Common Law suitors. Besides which, they indirectly take from the suitors the value of the Masters' offices, which is strictly and clearly their property, and of which the Lord Chancellor is a trustee for them.

6thly, Because the funds of the suitors in Equity cannot bear the reduction of a million and a half of their stock. Upon the great settlement of 1852 fees in Equity were remitted, which, within a few years, it is proved would have amounted to £40,000. The Lord Chancellor is bound to further relieve them if the funds be not taken away; they still pay 8 per cent. The accumulation was stopped in 1852, and the interest of the Suitors Fund was carried to the Fee Fund, and it appeared in 1860 that this arrange-

ment had saved the suitors £551,978. At times the whole income is nearly exhausted in payments. The income is subject to fluctuations. £1,200 to £1,500 a year was cut off by a decision as to receivers; and in 1860, £6000 a year charge had been added since 1858. Whilst Lord Cranworth was Chancellor, he had to order the sale of £300,000 to meet the suitors' demands.

The payments into Court cannot be depended upon. The power in one of the Bills, for which I am responsible, to executors to administer with safety the assets without filing a Bill and paying the money into Court, was followed next year by the amount paid into Court being £600,000 less than the previous year. Immense sums are paid in by railway companies, which must soon cease. Payments into Court of trust monies will, no doubt, be reduced in number when it is understood that the Government claim for the public a right to the fund which is still described as placed out for the benefit and security of the suitors.

Under the Commission before referred to, Mr. Johnson, the solicitor to the Suitors Fund, was examined at great length, and he showed clearly the impolicy of touching the fund, but to this important evidence no attention has been paid. Vice-Chancellor Stuart had a very strong impression that drawing upon the Suitors Fund for an enormous scheme of that kind, including the Courts of Law and Equity, would involve considerations of injustice that required a profound deliberation. Lord Justice Turner, in an elaborate statement, objected to the fund being taken; he held that the fund belonged to the suitors by original right, and that it was besides appropriated by Parliament to the purposes of the Court of Chancery; and he said that every appropriation of it by Parliament had been for the benefit of the suitors, and for their benefit only, and he did not think that it could, consistently with moral justice, be applied for other purposes than for the benefit of the suitors; he treated the notion that the Court was to be considered as a banker as a mistake, and he agreed with me that the Court was a trustee of the fund, and the suitor was the *cestui que* trust. He was of opinion that if Parliament did take the fund, not merely a guarantee but an actual revenue should be paid by the Exchequer to the Lord Chancellor equal to the interest of the fund taken from the suitors. The Master of the Rolls thought it very objectionable to touch any part of the Suitors Fund for the building

of Courts of Justice, and he stated that a former Chancellor of the Exchequer who wished to take the fund for public purposes under a guarantee from the public admitted that it could not fairly be so taken after its origin had been explained to him by the Accountant-General. Vice-Chancellor Wood, one of the Commissioners, dissented from the Report, as far as it related to the appropriation of the Suitors Fund, giving elaborate reasons in a separate form for his dissent; he agreed with Lord Justice Turner and the Master of the Rolls that the first step towards the appropriation of the Suitors Fund to purposes unconnected with the business of the suitors would be erroneous and unjust; and he thought it wrong on the general principles of political expediency. He held that the fees should be reduced with the funds, which the appropriation to the buildings would prevent; and, in fact, you would levy fees on a Chancery suitor in order to ease Common Law suitors in the expense of their litigation.

7thly, Because the scheme will displace 4,175 persons, of whom 3,082 are of the labouring class, including children. Many of them are described as of filthy habits, and it is proved that in some parts fever is never absent. The houses, warehouses, &c., occupied by this population are about four hundred. Now, much credit is taken for clearing away this crowd of people. Where are they to go? Government has made no provision for their future residence. Nobody pretends to know where they are to be located. We know that, go where they may, they will assist to further crowd some place already too full. Doubtless their filthy habits will accompany them, and the fever stricken, the never-failing fever, will be carried to other localities, to add misery and sickness to their inmates. Every one must desire to limit these evils as much as may be. Now, the unnecessary removals for the new Courts for the Equity Judges will add greatly to these evils, which ought to have much weight in the consideration of the subject, if we are in earnest in the sympathy which we so often express for the labouring man, who is driven from his home by public improvements.

8thly, Because no plan of the new Courts has been matured, and therefore no estimate of the expense can be relied on. Everything is left to be done, and doubtless the expense will far exceed the sums provided. The accesses to the Courts will cost a large

additional sum, for which no provision has been made. When it was proposed to build the Courts in the centre of Lincoln's Inn Fields, Sir Charles Barry, then Mr. Barry, in answer to a question from me in a Committee of the House of Commons, could not say that to open accesses from the two turnstiles, Duke Street, and Clare Market, all of which would be required, would not cost a million of money. Five years are allowed for the purchases of the site, and it is not probable that the buildings will be erected in less than twice that period, during which, no doubt, after the Suitors Fund is exhausted, large calls will be made upon the public funds before justice can be administered in the new Courts, and during all which time the suitors in Chancery will have to pay fees which ought to be abolished, and to put up with the two Courts of the junior Vice-Chancellors, so much complained of, without deriving the slightest benefit from the proposed concentration of the Courts.

Edward Burtenshaw Sugden, Lord St. Leonard's.

1st, Because these words are introduced for the purpose of sanctioning the erection of a bridge across the Strand to remedy the inconvenience (inseparable from the proposed site) arising from one of the most crowded thoroughfares in the Metropolis being between the Temple and the new Courts.

2ndly, Because such a bridge in connexion with the new buildings must be a most unsightly object if carried across the Street in one span, and hardly less so if in any other manner, and will in the latter case perpetuate and perhaps add to the present Temple Bar obstruction, and the demand for which is as discreditable to the taste of the Templars as it will be to that of any authority which may hereafter permit it to be erected.

John Thomas Freeman Mitford, Lord Redesdale.

DCCCCV.

JUNE 1, 1865.

By 28 and 29 Victoria, cap. 120, a number of enactments bearing upon clerical subscription were abrogated, in whole or part, such Acts ranging from 28 Henry VIII, cap. 15 (Irish) to 1 and 2 Victoria, cap. 106. It appears that the Bill had the approval of the clergy of the two English Convocations—Lord Granville carefully disclaimed the word 'concurrence'—but no such expression of opinion had been elicited from

the Irish provinces. The Archbishop of Dublin therefore, on the 29th of May, moved to postpone the measure, pending the summons of the Irish Convocation. After a debate (see Hansard, Third Series, vol. clxxxix, p. 959 sqq.) the motion was withdrawn. The Bill was passed on the 1st of June, and the following protest entered.

1st, Because that while agreeing that it is expedient to simplify and assimilate the laws of clerical subscription in all the provinces of the United Church of England and Ireland, and while acquiescing in the general reasonableness of the recommendations made in the report of the Royal Commissioners upon which this Bill is founded, we deem it inconsistent with the ancient customs of this Church and Realm that in a spiritual matter so nearly affecting the whole body of the clergy, canons enacted with the assent of the Crown by the bishops and clergy synodically assembled should be altered or annulled without a royal licence previously given to them to reconsider and alter those canons.

2ndly, Because the course taken in the bringing in and passing this Bill, which alters, without the concurrence of all the bishops and clergy of the Church in England and Ireland synodically assembled, canons of the Church respecting clerical subscription as a condition of admission into Holy Orders, is regarded by us as not only without adequate precedent, but without sufficient ground of general expediency.

3rdly, Because we think that the passing of this Bill, with the concurrence of the English, but without the concurrence of the Irish bishops and clergy synodically convened, may appear prejudicial to their undoubted right to a full participation in the common privileges of the spirituality of the United Church, a right declared by the Parliaments of Great Britain and Ireland to be an essential and fundamental part of the union of those kingdoms.

Richard Chevenix Trench, Archbishop of Dublin.

William Fitzgerald, Bishop of Killaloe, &c.

Hamilton Verschoyle, Bishop of Kilmore.

DCCCCVI.

APRIL 16, 1866.

The Parliamentary Oaths Amendment Bill, 29 and 30 Victoria, cap. 19, simplified the oaths taken by Members of Parliament, and repealed or modified several statutes from 30 Charles II, stat. 2, cap. 1, to 23 and 24 Victoria, cap. 63, the Act of Jewish Emancipation. It also repealed, in

part, the Roman Catholic Relief Act, as far as regarded the oath taken by Members of either House. The following protest was entered at the second reading, which was carried without a division. The debate is in Hansard, Third Series, vol. clxxxii, p. 1322. Permission was given Lord Grinstead to sign on the 19th of April.

1st, Because in my view 'the Parliamentary Oaths Bill' has the aspect in the hands of her Majesty's Ministers of being the result of a demand on the part of some one or more of the Irish Roman Catholic Members of Parliament for a concession to be made to them of one of the bulwarks of the Protestant constitution and to the spirit of the papacy.

2ndly, Because the Roman Catholic body in and previous to 1829 were parties, through their sponsors, to the contract involved in the present oath, and the sacred cause of morality is now violated before the country by the conspiracy at work to overthrow it.

3rdly, Because no reason whatever has been advanced by the Government for this extraordinary step. The suggestion that the oath is offensive to Roman Catholic ears is not worthy of attention, in comparison with the fact that this Bill removes the security from the Crown, Government, and Constitution of the country involved in the sworn protest of one thousand Protestant Members of both Houses of Parliament against the Papal supremacy, at a time when it is boldly asserted and maintained by the Papal party throughout the kingdom. The entire Protestant institutions of the empire, including the Protestantism of the Throne itself, might be thus alleged as a grievance, to be redressed on a similar principle.

4thly, Because, that in the new oath there are very serious omissions, such as that of binding all Members of Parliament to disclose traitorous conspiracies against the Sovereign, and withdrawing the protection from the Throne involved in the words 'to defend' it; omissions which at a time when the Habeas Corpus Act is suspended in one portion of her Majesty's dominions in consequence of a wide-spread conspiracy are calculated to promote an anti-monarchical spirit, and encourage a seditious feeling, especially in that country.

5thly, Because my objection to the present Bill is strengthened by the intention it evidently indicates on the part of her Majesty's



Government to make further concessions to the anti-British spirit of the Papacy and its aggressions.

George Thomas John Nugent, Marquis of Westmeath.  
William Willoughby Cole, Lord Grinstead (Earl of Enniskillen).

## DCCCCVII.

MARCH 1, 1867.

Among the measures of the Government this year was a Bill to amend the Scotch law of Hypothek. The Bill was read first on the 14th of February, and a second time on the 1st of March. On the 14th of March it was referred to a Select Committee, who reported on the 18th of March. It went through the Commons without a division, and received the royal assent on the 15th of July. (30 and 31 Victoria, cap. 42.) On the second reading in the Lords, the Lord Chancellor (Chelmsford) gave an account of the Scotch law of landlord and tenant, and explained the provisions of the Act. (Hansard, Third Series, vol. clxxxv, p. 1222.)

The following protest was entered.

1st, Because this Bill, by restricting the retrospective effect of sequestration to the last term's rent, obliges the landlord to use more stringency in the immediate collection of each half year's rent, and deprives him of the power of giving time to a tenant so as to enable him to reap his crop and realise his cattle before paying, an indulgence usually granted and of great importance to the smaller tenants, and compels the landlord also to record for public inspection what may be only a temporary embarrassment of the tenant.

2ndly, Because, while admitting that the power of taking grain out of the hands of a *bonâ fide* purchaser is anomalous, this anomaly has never in practice been found injurious; it has, on the contrary, been of advantage to the ordinary creditors, by preventing the possibility of fraudulent sales.

3rdly, Because a landlord whose land is let upon lease is bound to his tenant for a term of years, and is in a totally different position from a merchant or dealer, whose transactions may be terminated at any time.

4thly, Because we believe that the clamour in compliance with which the Royal Commission was issued and this Bill introduced was mainly got up by certain large farmers, with the view of increasing

the consolidation of farms, and if possible getting rid of the smaller holdings altogether.

Dunbar James Douglas, Earl of Selkirk.

Alexander Fraser, Lord Saltoun, for the first, third, and fourth reasons.

## DCCCCVIII.

AUGUST 6, 1867.

The representation of the people Bill (the Reform Bill of 1867) occupied the greater part of the session in the Lower House. The Act for England is 30 and 31 Victoria, cap. 102; that for Ireland, 31 and 32 Victoria, cap. 49; that for Scotland, 31 and 32 Victoria, cap. 48. The following protest was inserted on the third reading of the English Act.

1st, Because the Bill, creating in almost every city and borough in England a new constituency more numerous than that which exists, impairs, where it does not destroy, the power of the present electors, and substitutes for it that of a new body inferior to them in property and education.

2ndly, Because the confidence justly placed in constituencies of approved worth cannot reasonably be transferred to such men now first entrusted with electoral power; and it is to be feared that when labour makes laws for capital, poverty for property, legislation, no longer directed by educated intelligence, will impair the individual freedom of action and the security of possession which have been the foundations of our prosperity and wealth.

3rdly, Because it more nearly concerns the public welfare that representatives should be well chosen than that constituencies should be numerous; and the larger constituencies have rarely been fortunate in the choice of their representatives, or persistent in retaining them when they proved worthy of support.

4thly, Because a seat in the House of Commons, more difficult in attainment than heretofore, less secure in possession, and not exempt from humiliation while occupied, will cease to be an object of the same ambition to that high class of gentlemen by whose patriotic spirit and statesmanlike wisdom the liberties of the people were secured and the greatness of the country has been achieved.

5thly, Because the House of Commons, composed of inferior

men, dependant upon the fickle feelings of the masses they represent, will not afford to any Ministers a fair and consistent support; and successive Governments, permanently weak, limited in the choice of men to fill the great offices of State to the few who may have the best hopes of re-election, compelled to feel their way by measures of a tentative character, not fully approved even by themselves, will exist from day to day by concessions, lose all respect for themselves, but not before they have lost that of others, and at length retire with the conviction that the theoretical perfection of constituencies is incompatible with the successful conduct of the affairs of the country in Parliament.

Edward Law, Earl of Ellenborough.

Dunbar James Douglas, Earl of Selkirk.

## DCCCCIX.

AUGUST 13, 1867.

The Admiralty Courts (Ireland) Bill, 30 and 31 Victoria, cap. 114, is an Act containing 104 clauses, regulating the Court of Admiralty in Ireland. It originated in the Commons, and passed both Houses without a division. The clause objected to in the following protest is the fifth in the Act.

Because, though the present judge of the Admiralty Court in Ireland holds his office during good behaviour, and is removable only on an address from both Houses of Parliament, this Bill, without alleging against him either incompetency or misconduct, removes him from his office, and enables the Crown to appoint a successor, thus affording a precedent for unconstitutional interference with the independence of the judges.

Robert Monsey Rolfe, Lord Cranworth.

Ulick John de Burgh, Lord Somerhill (Marquis of Clanricarde).

## DCCCCX.

AUGUST 16, 1867.

The Bill for altering the establishment of the Irish Chancery and the superior Courts of Common Law in Ireland, was introduced in the Commons by the Irish Attorney General, Lord Naas, on the 10th of May. It passed the Lower House without a division. In the Upper certain

amendments were made, with one of which the Commons disagreed, alleging reasons which are to be found in the Lords' Journals, vol. xcix, p. 607, and in Hansard, Third Series, vol. clxxxix, p. 1602. The Act, containing sixty-one clauses, is 30 and 31 Victoria, cap. 129. The clause inserted by Lord Cranworth, and rejected by the Commons, was one giving the patronage of Master or Clerk of the rules in any of the superior Courts of Common Law, to the Chief Justices of the Queen's Bench and Common Pleas, and the Chief Baron of the Exchequer.

The following protest was entered after the Lords declined by 11 to 7 to maintain their amendment.

1st, Because the right of filling the subordinate offices in the superior courts of justice ought to belong to the heads of those courts, as being the persons best qualified to select fit and proper officers for the discharge of the duties they are to fulfil.

2ndly, Because from time immemorial this has been the practice in England, and has always been regarded as essential to the well-conducting of the business of the Courts.

3rdly, Because, in the year 1862, a Royal Commission was issued to many of the most distinguished judges and lawyers both in England and Ireland, directing them to inquire, amongst other things, as to the constitution and establishment of the superior Courts of Common Law in Ireland, and that Commission recommended the adoption in Ireland of the principle which has always prevailed in England as to the appointment of officers in the Courts, and no reason has been given why that recommendation has not been attended to.

4thly, Because the withholding from the Irish judges of the rights and privileges enjoyed by their brethren in England places them in an invidious and humiliating position, inasmuch as the reason for the distinction will be generally believed to be that it is not thought safe to trust the judges in Ireland with the exercise of patronage which is without hesitation confided to the judges in England.

Robert Monsey Rolfe, Lord Cranworth.

DCCCCXI.

MAY 10, 1869.

Simon Thomas Scrope, of Danby-on-Yore, in the county of York, made claim to the Earldom of Wiltes, granted in 1397 to Sir William le Scrope, second son of Lord Scrope of Masham. The case was before the Committee of Privileges for several years, and on the 10th of May, 1869, the

Committee reported that the petitioner had not made out his claim. It was objected by the Duke of Cleveland, that the Committee had decided on grounds which were inconsistent with those on which the Devon peerage case was decided in March, 1831, and moved that the case be reheard. After a short debate, the amendment was withdrawn. The original grant of the title was beheaded in 1399, and no Earl of Wiltes had sat subsequently. The decision of the House on this occasion directly reversed the rule laid down in the Devon peerage case as regards operative words in the grant of a dignity by the Crown, but was in conformity with the general rule governing royal grants.

The following protest was inserted.

1st, Because the resolution of the House is opposed to the decision of the House upon the Devon case in 1831, a decision accepted and acted upon by the Crown.

2ndly, Because King Richard was in full possession of the royal authority at the time the dignity of the Earl of Wiltes was created.

3rdly, Because the proceedings relied upon as affecting the rights of the heirs male of the Earl of Wiltes were all taken at a time when no lawful or legal government existed in England, and that the subsequent proceedings had in the Parliament of Henry the Fourth in no manner purported to affect, or could in law affect, the dignity of Earl of Wiltes.

Richard Monckton Milnes, Lord Houghton.

Ralph Gordon Noel Milbanke, Lord Wentworth.

Beilby Richard Lawley, Lord Wenlock, for first and second reasons.

Rudolph William Basil Feilding, Earl of Denbigh.

George Guy Greville, Earl Brooke and Warwick, for first and second reasons.

Thomas Dundas, Earl of Zetland, for first and second reasons.

Charles George Noel, Earl of Gainsborough, for first and second reasons.

George Arthur Hastings Forbes, Earl of Granard.

William Ernest Duncombe, Earl of Feversham, for first and second reasons.

John Francis Arundell, Lord Arundell of Wardour.

Henry Fitzalan Howard, Duke of Norfolk (Earl Marshal), for first and second reasons.

Charles John Colville, Lord Colville of Culross, for first and second reasons.

William Nevill, Earl of Abergavenny, for first and second reasons.

## DCCCCXII.

JUNE 18, 1869.

The second reading of the Irish Church Bill was carried in the Lords by 179 to 146. See Hansard, Third Series, vol. cxcvi, p. 1637, cxcvii, p. 18.

The following protest was inserted.

Because the Bill is in its principle and main provisions plainly and directly at variance with the obligations imposed upon the Sovereign by the Coronation Oath.

William Thomas Le Poer Trench, Viscount Clancarty (Earl of Clancarty).

## DCCCCXIII, DCCCCXIV.

JULY 12, 1869.

The following two protests were entered against the passage of the Irish Church Bill. An amendment had been offered by Lord Clancarty, that the Bill be read that day three months, but he withdrew his motion. Leave was given to Lord Derby and others, who wished to sign a protest, to enter their names up to 2 p.m. on the 15th.

1st, Because since 1835 no consent has ever been given in this House to the principle of the 'Appropriation Clause' carried in the House of Commons by a Committee of the whole House in 1835.

2ndly, Because on the second reading of this Bill it was assumed that the principle of it was agreed to, whereas by the exclusion of speeches by the Right Reverend the Lord Bishop of London and of Lord Lytton a full discussion of that principle was prevented.

3rdly, Because in this House any question faulty in principle may as fairly be opposed on the third reading as on any other stage of a Bill.

Thomas Denman, Lord Denman.

1st, Because this Bill, for the first time since the foundation of the British Monarchy, introduces, so far as Ireland is concerned, the principle, unrecognised in any other country in Europe, of an entire severance of the State from the support of any and every form of religious worship.

2ndly, Because the adoption of this principle with regard to Ireland cannot but give great encouragement to the designs of those who desire its extension to every part of the United Kingdom.

3rdly, Because it is a violent stretch of the power of Parliament to resume a grant made by itself in perpetuity ; still more to confiscate property held by long prescription, and by a title independent of Parliament.

4thly, Because if this principle be well founded as regards private property, it is still more so with regard to that which has been solemnly set apart for the purposes of religion and the service of Almighty God.

5thly, Because the legislation attempted in this Bill tends to shake confidence in all property, and especially in that which rests upon a Parliamentary title heretofore considered as the most unsailable of all.

6thly, Because it is impossible to place a Church, disestablished and disendowed, and bound together only by the tie of a voluntary association, on a footing of equality with the perfect organization of the Church of Rome, whereby, especially in Ireland, the laity are made completely subservient to the priesthood, the priests to the bishops, and the bishops themselves are subject to the uncontrolled authority of a foreign potentate.

7thly, Because this Bill will be felt as a grievous injustice by the Protestants of Ireland, who, through their Irish Parliament, surrendered their political independence by a treaty the fundamental condition of which was the greater security of the Protestant Establishment.

8thly, Because while this measure will tend to alienate those who have hitherto been the firmest supporters of the British Throne and British connexion, so far from conciliating, much less satisfying, it will only stimulate to fresh demands that large portion of the Roman Catholic population of Ireland which looks forward to ulterior and very different objects, and, above all, to ultimate emancipation from the control of the British Legislature.

Edward Law, Earl of **Ellenborough**.

Edward Geoffrey Smith Stanley, Earl of **Derby**.

John Thomas Freeman Mitford, Lord **Bedesdale**.

Dudley Ryder, Earl of **Harrowby**.

William Sydney Clements, Viscount **Clements** (Earl of Leitrim).

John Winston Spencer Churchill, Duke of **Marlborough**, for the first, second, third, fourth, fifth, seventh, and eighth reasons.

Francis Bernard, Earl of **Bandon**.

Charles Bernard, Bishop of **Tuam**.

James Howard Harris, Earl of **Malmesbury**.

Alexander Fraser, Lord **Saltoun**.

Frederic Thesiger, Lord **Chelmsford**.

John Major, Lord **Hartismere** (Lord Henniker).

William Lennox Lascelles Fitzgerald de Ros, Lord **De Ros**.

William Drogo Montagu, Duke of **Manchester**.

William Willoughby Cole, Lord **Grinstead** (Earl of Enniskillen).

William David Murray, Earl of **Mansfield**.

Thomas de Grey, Lord **Walsingham**.

Hugh MacCalmont Cairns, Lord **Cairns**, for the first, second, third, fourth, fifth, seventh, and eighth reasons.

John George Weld Forester, Lord **Forester**.

Thomas Denman, Lord **Denman**.

William Thomas Le Poer Trench, Viscount **Clancarty** (Earl of Clancarty).

George Frederic Upton, Viscount **Templetown**.

George Augustus Selwyn, Bishop of **Lichfield**.

Brook William Bridges, Lord **Fitzwalter**.

William John Brodrick, Lord **Brodrick** (Viscount Midleton).

Algernon George Percy, Duke of **Northumberland**.

Randolph Stewart, Lord **Stewart of Garlies** (Earl of Galloway).

John Yarde Butler, Lord **Churston**.

John Thornton Leslie Melville, Earl of **Leven and Melville**.

Eyre Massey, Lord **Clarina**.

Walter Coningsby Erskine, Earl of **Kellie**.

Charles Augustus Bennet, Earl of **Tankerville**.

Thomas Maitland, Earl of **Lauderdale**.

George Stephens Gough, Viscount **Gough**.

William Walter Legge, Earl of **Dartmouth**.

Charles John Ellicott, Bishop of **Gloucester and Bristol**.

Cornwallis Maude, Viscount **Hawarden**.

William Henry Hare Hedges White, Earl of **Bantry**.

Frederic Lygon, Earl **Beauchamp**, for the first, second, third, and fourth reasons.

James Hamilton, Marquis of **Abercorn** (Duke of Abercorn).

Henry Dundas, Viscount **Melville**.

William Pitt Amherst, Earl **Amherst**.

Horace Pitt Rivers, Lord **Rivers**.

George John Milles, Lord **Sondes**.

Edward Harold Browne, Bishop of **Ely**.

John Cavendish Browne, Lord **Kilmaine**.

Reginald Charles Edward Abbot, Lord **Colchester**.

Charles Morgan Robinson Morgan, Lord **Tredegar**.

William O'Neill, Lord **O'Neill**.



George Guy Greville, Earl Brooke and Warwick.  
William Draper Mortimer Best, Lord Wynford.  
James Graham, Earl Graham (Duke of Montrose).  
Edward St. Vincent Digby, Lord Digby.  
William Lygon Pakenham, Lord Silchester (Earl of Longford).  
Charles John Colville, Lord Colville of Culross.  
William Alleyne Cecil, Marquis of Exeter.  
William Nevill, Earl of Abergavenny.  
William Henry Drummond, Viscount Strathallan.  
George Thomas John Nugent, Marquis of Westmeath.  
Thomas Vesci, Viscount De Vescei.

## DCCCCXV.

JULY 12, 1869.

The following protest was entered after the passage of the Irish Church Bill.

1st, Because free discussion was again prevented on this stage of the Bill by the refusal of clamorous members of the House of Lords to hear Lord Dunboyne, one of the Representative Peers for Ireland.

2ndly, Because the exclusion of the bishops, who are appointed by the Crown with a view to aid the counsels of her Majesty during their lives, is an interference with the constitution of the House of Lords, and with her Majesty's prerogative, and is likely to injure the Protestant clergy and laity of Ireland.

Thomas Denman, Lord Denman.

## DCCCCXVI.

JULY 22, 1870.

The Lords inserted sixty-two amendments in the Irish Church Bill. Of these thirty-five were adopted by the Commons, fourteen were re-amended, and thirteen rejected. The debate on these amendments was taken on the 20th and 22nd of July, and the motion not to insist on certain enactments in clause 27, relative to ecclesiastical residences, was agreed to by 47 to 17.

The following protest was entered.

1st, Because the usefulness of every clergyman in Ireland would be greatly impaired by the knowledge that he could have no legitimate successor in his parish and glebe house as of right.

2ndly, Because this Bill would perpetuate the divisions into sects of Christians, which the appeal to an open Bible would tend to bring into unity under the supremacy of the Crown.

3rdly, Because the families of persons in Holy Orders would be deprived of that support which promotion on account of zeal and earnestness in duty has hitherto rewarded the clergy withal in their homes.

4thly, Because the want of resident gentry being injurious to Ireland, the disturbance of a system which ensured a fair proportion of educated inhabitants would every year be more deeply felt if the clergy could not have houses free of charge.

5thly, Because the equality proposed by this Bill would weaken the protest against such minor doctrines of the Church of Rome as tend to a reliance on form and on painful observances, and would divert attention from points which pious Catholics considered worthy of being conceded, and which the Queen Regent of France in 1561, in her instructions to be laid before the Pope, so far adopted as to write 'What danger can there be to the Church in removing images from the churches and doing away with certain useless forms in the administration of the Sacraments? It would be advantageous to allow all persons the Communion under both kinds; and to permit Divine worship to be celebrated in the vulgar tongue,' by Protestants.

6thly, Because as sooner or later the continued opening of churches in the Reformed Faith would bring all the inhabitants of Ireland into one Communion, and as the people of England desire their Irish Catholic brethren to enjoy all the advantages which they themselves possess as a National Church, it might well be considered at the great 'Œcumenical Council' how far changes should be deprecated subversive of all establishments and privileges.

7thly, Because there can be no equality between the Romanists, Presbyterians, and (lawful) Episcopalians of Ireland if the endowments of the latter should be handed over to a paid commission, unless those denominations also permit their property to be confiscated, and because the petition from Killelagh to the House of Commons has been disregarded since the 22nd of June, 1831, until now.

8thly, Because the phrases 'Gifts of Churches,' 'Re-establishment,' and 'Re-endowment,' apply to the case of lawful possession being invaded, of the disturbance of a position guaranteed by the Act of Union, and promulgated by a solemn invocation of the

Deity in Westminster Abbey, and to the revenues of the Irish Church, which are barely sufficient for the support of all the clergy, and of those who have at great cost been educated with the view of being candidates for Holy Orders.

9thly, Because the Peers, being sworn to legislate 'according to law,' are invading the first principles of justice in consenting to this Bill, and removing blameless clergymen by commutation or otherwise.

Thomas Denman, Lord Denman.

## DCCCCXVII.

JUNE 17, 1870.

A Bill, under the name of a High Court of Justice Bill, was introduced in the Lords by the Chancellor (Lord Hatherley), on the 11th of March, and the second reading of the Bill, with that of the Appellate Jurisdiction Bill, was taken on the 18th of March. (Hansard, Third Series, vol. cc, p. 169.) On the third reading, 17th of June, Lord Denman moved that the Bill be read that day three months, but withdrew his motion and entered the following protest. The Bill was read a first time in the Commons, but withdrawn on the 25th of July.

1st, Because in clause 2 the division of the so-called High Court of Justice for the convenient despatch of business into five divisional courts, to be styled respectively the Court of Chancery, the Court of Queen's Bench, the Court of Common Pleas, the Court of Exchequer, and the Probate, Divorce, and Admiralty Court (excluding the name of the Rolls Court), and the uncertainty caused by the words in the third line of the second page, 'or to be otherwise styled in such manner as her Majesty may, by order in Council, from time to time determine,' and 'each of the said Courts shall be presided over by a Lord President,' is no improvement on the well-known division of business now relied upon by suitors; whilst the grouping together of judges, several of whom at present sit alone, is a waste of power which is unnecessary, and because the names of the heads of each Court are now well known, and their duties defined, the transfer of equity jurisdiction to them may induce the framers of rules to introduce the system of Bill and Answer into Courts in which the pleadings have become every year less complicated, and in such case the alteration of the system of our ancient courts will cause great delay and uncertainty.

2ndly, Because some such improvement as the procedure in petitions of right (simplified by Lord Westbury) is needful to be known by the public before a sweeping change in Common Law Procedure is hastily projected.

3rdly, Because if only one Judge sit at all times to try civil causes, and only one Judge for criminal causes at all times of the year, with the exception of legal vacations, there will be danger of having a divided bar, unless great care be taken to prevent the clashing with circuits.

4thly, Because the Report of the Commission upon which this Bill was founded was considered by the Law Amendment Society as the production more of a small cabinet of lawyers than of representatives of the general feelings of the Bench, the Bar, and the Legal Profession.

5thly, Because the Incorporated Law Society, in their last petition, attach great importance to the formation of a code which should inform the profession what course should be adopted in procedure, and do not desire indefinite improvement.

6thly, Because also the Incorporated Law Society have just fears of the provision for compulsory arbitration, especially by men unacquainted with the law, whose awards may not be made in a binding form; and the temptation to refer causes being very great, some check should be imposed, if not equal to the present right by either side to refuse his consent to a reference, yet sufficient to prevent the plaintiff from wishing in vain to withdraw his record, and the defendant from submitting to injustice rather than incur the expense and delay of arbitration.

Thomas Denman, Lord Denman.

## DCCCCXVIII.

JUNE 17, 1870.

The second reading of the Irish Land Bill was taken on this day, the debate on the second reading beginning on the 14th of June. A proposal was made by Lord Oranmore and Browne that the Bill be read that day six months. But the Bill was ultimately read a second time without a division.

The following protest was entered.

Because some of the provisions of this Bill are opposed to the just rights of property, and are admitted by its advocates to be

unfit to be made the law in England and Scotland, and to be only justified in Ireland on account of the existing relations between landlord and tenant in some parts of that country, which they consider exceptional, and hope may be removed under the operation of this measure.

Because it is proposed that these provisions, instead of being imposed for a limited period to meet an exceptional state of things, are to be enacted permanently, and thereby appear to be established as principles which ought to exist by law at all times between landlord and tenant, and any attempt to repeal them, although the exceptional reason for their introduction may have passed away, will be attended with serious opposition and discontent.

Because this enactment of them as principles is likely to lead to agitation for the extension of similar provisions to England and Scotland, in order that one system of permanent law on the subject may be established throughout the United Kingdom.

John Thomas Freeman Mitford, Lord **Redesdale**.

George Charles Bingham, Earl of **Lucan**.

James Howard Harris, Earl of **Malmesbury**.

John Cavendish Browne, Lord **Kilmaine**.

William Willoughby Cole, Lord **Grinstead** (Earl of Enniskillen).

Alexander Fraser, Lord **Saltoun**.

Geoffrey Dominick Augustus Frederic Guthrie, Lord **Oranmore and Browne**.

Ulick John De Burgh, Lord **Somerhill** (Marquis of Clanricarde).

James George Henry Stopford, Lord **Saltersford** (Earl of Courtown).

William Sydney Clements, Viscount **Clements** (Earl of Leitrim).

Edward Plunkett, Lord **Dunsany**, for first and second reasons.

Henry Francis Seymour Moore, Lord **Moore** (Marquis of Drogheda).

George Frederic Upton, Viscount **Templetown**.

William Drogo Montagu, Duke of **Manchester**.

Denis St. George Daly, Lord **Dunsandle and Clanconal**, for first and second reasons.

Edward St. Vincent Digby, Lord **Digby**.

## DCCCCXIX.

JULY 5, 1870.

The report of the amendments made by the Committee of the whole House in the Irish Land Bill was brought upon this day, when several further amendments were offered.

The following protest was entered.

1st, Because the provisions of this Bill involve an interference with the acknowledged rights of property, to an extent without precedent in the legislation of any civilised country.

2ndly, Because this Bill has been founded on an alleged exceptional state of affairs as to the relations between landlord and tenant, which allegations are not founded on facts, it having been satisfactorily shown that the land in Ireland is rented at a lower rate than that in any part of Central Europe, and that evictions, other than those for non-payment of rent, have been inconsiderable.

3rdly, Because exceptional legislation is calculated to create an exceptional state of circumstances, and to interpose a barrier to the future improvement of the country.

4thly, Because the liberty of contract upon which all transactions between man and man ought to be based, is improperly interfered with, restricted, and violated, to the disadvantage of the Commonwealth, and destructive to personal responsibility.

5thly, Because the effect of this Bill will be to promote litigation between the owners and occupiers of the soil, and to interfere with those reciprocal feelings of cordiality and good will on which the welfare of an agricultural community so much depends.

6thly, Because the imposition of a tax in Ireland which is not imposed on a like article in England, as is done by this Bill, is a direct violation of the Treaty of Union between Great Britain and Ireland.

7thly, Because while professing to give security of tenure to the small farmers, the obvious consequence of this Bill will be to promote the consolidation of farms, and the removal of the Irish peasantry from their small holdings.

William Sydney Clements, Viscount Clements (Earl of Leitrim).  
James Talbot, Lord Talbot de Malahide.

James George Henry Stopford, Lord Saltersford (Earl of Courtown), for the first, fourth, and fifth reasons.

Robert Dillon, Lord Clonbrock, for the first, fourth, and fifth reasons.

Lawrence Parsons, Earl of Rosse, for the first, third, fourth, and fifth reasons.

Edward Plunkett, Lord Dunsany, for the first, second, third, fourth, fifth, and sixth reasons.

John Cavendish Browne, Lord Kilmaine, for the first, second, third, fourth, fifth, and sixth reasons.

Ulick John de Burgh, Lord Somerhill (Marquis of Clanricarde), for the first, third, and fourth reasons.

### DCCCCXX.

JULY 7, 1870.

The Irish Solicitor-General, Mr. Dowse, moved, on the 16th of June, the second reading of a Bill for the Disfranchisement of the Boroughs of Cashel and Sligo, on the ground of long-continued corruption in those constituencies. See Hansard, Third Series, vol. ccii, p. 309. An amendment was moved by Colonel French, to save Sligo, but the motion was lost by 158 to 23. In the Lords, the Earl of Granard presented a petition from the Corporation of Sligo, praying to be heard by counsel against the Bill. This prayer was rejected, and the following protest inserted.

Because in dealing with Bills of this character this House, which is a court of appeal, ought not to refuse to hear what the counsel of these petitioners may have to say in their behalf before it decides against them.

John Thomas Freeman Mitford, Lord Redesdale.

### DCCCCXXI, DCCCCXXII.

JULY 8, 1870.

The following protests were entered against the third reading of the Irish Land Bill.

1st, Because property has its rights as well as its duties, and the present Bill is the greatest violation of them in modern times.

2ndly, Because the interests of landlord and tenant are identical, and whatever injures the one cannot fail to injure the other.

3rdly, Because this Bill is contrary to all the received principles of political economy.

4thly, Because this Bill will be more severe against the improving and indulgent landlord than the harsh and inconsiderate one.

5thly, Because it will produce a great amount of litigation, and necessarily produce collisions between parties who have hitherto been on the most friendly terms.

6thly, Because it will paralyse the attempts of landlords to improve the condition of their tenantry, and to introduce a good system of husbandry.

7thly, Because no legislation will settle the land question as long as successive Governments, under the influence of party exigencies, encourage professional agitators to disturb the minds of the people.

James Talbot, Lord Talbot de Malahide.

William Thomas Le Poer Trench, Viscount Clancarty (Earl of Clancarty).

Cornwallis Maude, Viscount Hawarden.

Thomas Denman, Lord Denman.

Robert Dillon, Lord Clonbrock.

James George Henry Stopford, Lord Saltersford (Earl of Courtown).

Edward St. Vincent Digby, Lord Digby.

William Sydney Clements, Viscount Clements (Earl of Leitrim).

1st, Because this Bill, intituled 'An Act to amend the law relating to the occupation and ownership of land in Ireland,' relates principally to cases of severance of tenancy, and to arbitration and litigation as to subjects of dispute between outgoing tenants and their former landlords.

2ndly, Because the creation of anticipated ownership by tenants will tend to make the tenant deteriorate his land until a purchase can be effected.

3rdly, Because the loan to tenants of two-thirds of their purchase money will induce such purchasers to rely rather on the mercy of the Government to diminish the term of thirty-five years during which payment is to be made, than to lay out money in improvements made more difficult by the want of capital, whilst no return, except to a small amount by skilful and profitable farming, can be expected by the borrowing purchasers.

4thly, Because Ireland differs from Prince Edward's Island in this, to wit, that, while one hundred acres can easily be purchased there at a small outlay for each son of a farmer, in Ireland, the small proportion of land obtainable by each member of a family



tends to sub-division of holdings, and to the too unwholesome occupation of houses by families and their farming stock, which ought to have better accommodation than can be expected under this Bill.

Thomas Denman, Lord Denman.

### DCCCCXXIII.

AUGUST 14, 1871.

A Bill entitled 'The Reductions *ex capite lecti* Abolition Bill,' was passed through the House of Commons without debate or division. In the Lords it was challenged by Lord Redesdale and others, for reasons contained in the subjoined protest. No division however was taken on it. It is 34 and 35 Victoria, cap. 81. See Hansard, Third Series, vol. ccviii, p. 1565.

Because this Bill repeals the only law in Scotland relating to mortmain without providing any substitute.

Because instead of allowing time and opportunity for the due consideration of this Bill by Parliament and by Scotland, it was brought into the House of Commons on the 20th July under a different title. It had then two clauses, the first relating to reductions *ex capite lecti*, and the second to fees of conquest, and was named after this latter provision Fees of Conquest Abolition Bill, under which title it was read a second time after midnight on Thursday, 27th July, and committed for the same day, Friday, 28th July, when the second clause was struck out, and the title of necessity changed. It was considered on Monday, 31st July, and read a third time, and passed on Tuesday, 1st August, having been under its proper title those two days only.

Because having been thus smuggled through the House of Commons, it was brought to this House on Thursday, 3rd August, and notice of the second reading was first given on Monday, 7th August, for the following day, when the attention of the House was called, and objection taken to it by a noble lord well acquainted with Scotch law and the feelings of that people, and if the above-mentioned facts relating to its passage through the Commons had been then known and stated, it would have most probably been thrown out.

Because such a course of proceeding with an important Bill is

discreditable to both Houses of Parliament, neither having had time to consider the measure properly, or prepare the provisions which ought to be introduced in connexion with the repeal of the present law, and because from the manner in which it has been managed by its promoters it is impossible that such repeal can be generally, if at all, known to the people of Scotland.

John Thomas Freeman Mitford, Lord **Redesdale**.

Edward Bootle Wilbraham, Lord **Skelmersdale**.

Cornwallis Maude, Viscount **Hawarden**.

Thomas Denman, Lord **Denman**, especially for the first reason.

## DCCCCXXIV.

JUNE 25, 1872.

The Ballot, under the title of 'A Parliamentary and Municipal Elections Bill, and a Corrupt Practices Bill,' was introduced in the Commons by Mr. W. E. Forster, on the 8th of February. It was read a second time on the 15th of February, by 109 to 51, and put into Committee on the 29th of February. It passed the Commons on the 30th of May, and was read in the Lords for the first time on the 31st of May. A division was taken on the second reading, 10th of June, on Lord Grey's motion that the Bill be read that day six months, and the second reading was carried by 86 to 56. It went into Committee on the 17th of June, and was read a third time on the 25th of June. After a Committee had been appointed in the Commons to draw up reasons against some amendments of the Lords, the Lords gave way on certain points, and the Bill was finally passed. It received the royal assent on the 18th of July, and is 35 and 36 Victoria, cap. 33.

The following protest was inserted.

1st, Because contests must be greatly increased in number, as no such preliminary meetings can be held before an election as will be any guides to candidates of their chances of success, from the secrecy which will prevent many from declaring their opinions.

2ndly, Because the small number of nominators might greatly increase the number of candidates in a constituency of 2,000 voters (where only one candidate can be elected), so that where two candidates might poll 1,000 votes each, out of twenty candidates polling near 100 each nineteen might be defeated and the election carried by a candidate polling a little more than a tenth part of the voters

3rdly, Because after the balloting the collection of ballot boxes and counting of the papers would make a declaration of the poll a

subject of suspense and delay for many days in large constituencies, which would greatly tend to excitement and ill-feeling, and defeat one great object of the Reform Bill of 1832, which was to shorten as much as possible the duration of elections, besides being contrary to the declared intention of the Ballot Bill.

4thly, Because no provision is made by fine or otherwise for preventing committee rooms being held in public houses, or for closing them during any part of the day of election, both which precautions have been the subjects of many petitions to both Houses of Parliament.

Thomas Denman, Lord Denman.

## DCCCCXXV.

MAY 5, 1873.

The Supreme Court of Judicature Bill, which ultimately became 36 and 37 Victoria, cap. 66, was read for the first time on the 13th of February, on the motion of the Lord Chancellor (Selborne), and a second time on the 11th of March. On the 3rd of April it was referred to a Select Committee, was amended and reported on. It went into Committee on the 1st of May. On the 5th of May, Lord Denman moved that it be read again that day six months. This motion was rejected without a division, and the following protest was inserted.

1st, Because this Bill seeks to deprive the Lords Spiritual and Temporal of a right which has never been abused, and substitutes a tribunal, on account of its knowledge of the technicalities of law and equity, at the same time that it abolishes every regular form of pleading, and introduces the necessity for printed forms at Common Law, instead of upholding the regulations of the Common Law Procedure Act, 1852, and multiplies printed statements in equity cases, unless a defendant at once submits to a claim made against him.

2ndly, Because it substitutes a Committee of Judges to form rules as to term, vacation, and circuit, subject to doubt and delay and opposition after being laid before Parliament, instead of framing rules and divisions of times and of circuits which can at once be understood by counsel and suitors and all her Majesty's subjects.

3rdly, Because her Majesty's ancient Courts of Chancery, Queen's Bench, of Common Pleas, and Exchequer, do not require a new legislative enactment to enable them to retain their distinctive

names; nor is it desirable to re-appoint any salaries or retiring pensions, which are already settled by law; nor to send blanks to be filled up in another place with salaries for newly-created Judges, especially as on the 13th of June, 1839, the Borough Courts Uniformity Bill having been sent to another place with blanks (as to dates) and returned with blanks, was consequently no Bill at all.

4thly, Because the extremely unfair reports in the newspapers of what was really said by at least one member of your Lordship's House has given the public a false impression of the debates, and possibly may have prevented a fair consideration of some of the arguments adduced.

5thly, Because the retirement of the right honourable and revered Lord Saint Leonard's has alone prevented his Lordship from opposing the attempted degradation of this honourable House as a Court of Appeal for England and Wales.

6thly, Because when the Equity side of the Exchequer was abolished it was deemed 'a waste of power' by the last Lord Chief Justice of England but one, and such power might gradually be extended instead of being conferred indiscriminately.

7thly, Because although by the Bill, in the event of Chancery being in Commission, the senior Lord would be Speaker of the House of Lords, yet no provision is made for constituting a complete Court of Appeal, by appointing at least two other noble Lords Commissioners and Deputy Speakers, with such a Committee of Spiritual and Lay Peers as might be formed on the model of 14 Edward III, sect. 1, cap. 5, which was enabled to sit whenever Parliament was assembled, also in vacation, and in such case to report to the House at the next Parliament.

Thomas Denman, Lord Denman.

DCCCCXXVI.

MAY 5, 1873.

Lord Redesdale, after the motion of Lord Denman had been rejected, moved, in order to secure the 'right of appealing for justice to Parliament in the last resort,' an amendment to the twentieth clause of the Bill, in the following words:—'Except when the Court of Appeal shall be of opinion that any appeal ought to be reheard, in which case the Court shall order such appeal to be referred to the House of Lords.' This amendment was negatived, and the following protest inserted.

1st, Because when the decision of a Court is appealed from, it is better that the cause should be referred to another tribunal than re-heard in the same Court.

2ndly, Because by rejecting the amendment the House abandons its ancient prerogative of being the Supreme Court of Appeal in England.

3rdly, Because this House cannot be deprived of the right to exercise such an important and useful function without ultimate loss of character and authority.

4thly, Because the efficient manner in which the House has discharged this duty is admitted in the Bill, which, while it removes England from its jurisdiction, retains it for Scotland and Ireland, as eminently satisfactory to those countries, and preferred by them to the new Court of Appeal proposed to be established for England.

John Thomas Freeman Mitford, Lord Redesdale, for third and fourth reasons.

Thomas Denman, Lord Denman.

## DCCCCXXVII.

JULY 24, 1873.

The Supreme Judicature Bill was read for the first time in the Commons, on the 7th of May, on the motion of the Attorney-General (Sir J. D. Coleridge), and a second time on the 9th of June. It went into Committee on the 1st of July, and amendments were made in it. It was read a third time on the 22nd of July, and the amendments considered on the 24th of July. On this occasion, Lord Redesdale made the following motion:—‘As it is now admitted by the promoters of the Bill that there should be only one Court of Ultimate Appeal for the United Kingdom, and as it is uncertain whether any such Court can be newly constituted in England which will give the same satisfaction to Scotland and Ireland which it is admitted that this House has afforded, it is inexpedient without allowing time for further enquiry to pass a Bill which establishes a separate Court of Ultimate Appeal for England, and must therefore render a repeal of the Settlement under the Acts of Union necessary, if the Appeals from those countries are to be transferred to that Court, the formation of which will justify Scotland and Ireland desiring to have separate Courts of Ultimate Appeal in their own capitals if no longer allowed to come to this House: and it is therefore expedient that the consideration of the amendments made by the House of Commons be deferred for three months.’ This motion was rejected by 61 to 34, and the following protest was inserted. Of the protesting Peers, Lords Hertford, Houghton, Denbigh, Abergavenny, and Feversham, were not in the division.

1st, Because the Bill was returned to this House late on Tuesday night, and the ten pages of important amendments made by the Commons were only delivered to the Peers in the course of this morning, and the manner in which it might be proposed to deal with any of them either by rejection or alteration was unknown to the House generally until after the motion was made that the Commons' Amendments be now considered.

2ndly, Because by assenting to this Bill this House abandons its ancient prerogative of being the Supreme Court of Appeal in England, when the expediency of having only one such Court for the United Kingdom which was denied by the promoters of the Bill while it was passing through this House, is now admitted by those who then voted against it, and as it must be uncertain whether the Court constituted under this Bill will give the same satisfaction to Scotland and Ireland which it is admitted that this House has afforded, it is important that time should be allowed for further consideration before this House agrees to establish a separate Court of Ultimate Appeal for England, which will justify a demand from Scotland and Ireland for similar Courts in their own capitals if no longer allowed to appeal to this House.

John Thomas Freeman Mitford, Lord Redesdale.

Frederic Lygon, Earl Beauchamp.

Charles Cecil John Manners, Duke of Rutland.

Dunbar James Douglas, Earl of Selkirk.

Francis George Hugh Seymour, Marquis of Hertford.

Richard Monckton Milnes, Lord Houghton.

Rudolph William Basil Feilding, Earl of Denbigh.

Richard Somerset Le Poer Trench, Viscount Clancarty (Earl of Clancarty).

Charles Edmund Law, Lord Ellenborough.

William Lennox Bathurst, Earl Bathurst.

Edward Thomas Howell Thurlow, Lord Thurlow.

Walter Francis Montagu Douglas Scott, Earl of Doncaster (Duke of Buccleuch).

William Nevill, Earl of Abergavenny.

William Ernest Duncombe, Earl of Feversham.

Charles George Noel, Earl of Gainsborough.

Alexander Fraser, Lord Saltoun.

William Draper Mortimer Best, Lord Wynford.

Thomas Denman, Lord Denman, for the whole protest down to the second 'England' in the second paragraph.

## DCCCCXXVIII.

JUNE 22, 1874.

The Court of Judicature (Ireland) Bill was introduced by the Lord Chancellor (Cairns) on the 7th of May. The Chancellor explained the measure on that occasion, when his policy was supported by Lords Selborne and Moncrieff, criticised by Lords O'Hagan, Penzance, and Coleridge, and objected to by Lords Denman and Redesdale, the last named on the ground that it was inexpedient to surrender the appellate jurisdiction of the Lords (Hansard, Third Series, vol. cxxviii, p. 1808). The Bill was read a second time on the 19th of May, reported on the 11th of June, and passed on the 22nd of June. At the last stage Lord Denman moved that the Bill be read that day three months, but did not press his motion to a division. On this occasion the following protest was inserted. The Bill was subsequently dropped in the Commons (on the 27th of July) after it had been read a second time.

1st, Because this House as a Court of Ultimate Appeal for Ireland has secured to itself the approval and confidence of that country in the discharge of the duties so entrusted to it, and cannot surrender a privilege which has been attended with a result so advantageous to its character without injurious consequences to its own interests, and to those of the United Kingdom.

2ndly, Because this abandonment of jurisdiction is uncalled for by any expression of public opinion, and has been openly objected to by members of the legal profession in Ireland, who may be fairly held to represent the interests and wishes of the suitors and their clients.

3rdly, Because the state of public feeling in Ireland, in regard to the Imperial Parliament, renders the transfer of the jurisdiction of this House, so respected in that country, to a new and untried English Court particularly inexpedient at the present time.

John Thomas Freeman Mitford, Lord **Redesdale**.

## DCCCCXXIX, DCCCCXXX.

JUNE 25, 1874.

A second Bill was introduced at the same time as the Irish measure mentioned in the introduction to the last protest, by the Chancellor, under the title Supreme Court of Judicature Act (1873) Amendment Bill. The purposes of the Bill may be gathered from the same speech (Hansard, Third Series, vol. cxxviii, p. 1808). On the 11th of June, when the motion was made to go into Committee, Lord Redesdale moved

'That as it is admitted that this House is preferred by Scotland and Ireland as their Court of Final Appeal to any other which has been proposed, and as a satisfactory Court of Final Appeal has not yet been established for England, it will be expedient, instead of proceeding to create a new Court for all the three Kingdoms, that the provisions of the Supreme Court of Judicature Act of last Session which prohibit appeal to this House be repealed, and that time be thereby allowed for the adoption of such improvements in the constitution and practice of this House, in the discharge of its judicial functions, as may remove the objections which have been taken to it as a Court of Judicature, and that the Committee on the Supreme Court of Judicature Act (1873) Amendment Bill, be hereby instructed to amend the same in accordance with this resolution.' After a prolonged debate (Hansard, Third Series, vol. ccix, p. 1359), Lord Redesdale's motion was rejected by 29, 52-23. The Bill was read a third time on the 25th of June, when Lord Denman moved that it should be read a third time that day three months, but found no second teller for the Noes.

On this the following protests were inserted.

1st, Because the Act which this Bill purports to amend was passed on condition that its working should be tried, before its application to Scotland and Ireland.

2ndly, Because the recommendation of the Select Committee of this Honourable House, 1872, has been disregarded in its extension to Ireland and Scotland.

3rdly, Because the designation of 'Imperial Court' is less worthy of respect than 'Her Majesty in Parliament' and 'Her Majesty in Council;' whilst an advocate of Imperial Rule in Ireland was designated an imperious Englishman—1869. See Hansard, vol. cxc, p. 773.

4thly, Because, though professing to create one Imperial Court of Judicature, this Bill proposes many sub-divisions with shifting duties of Judges, instead of continuing the power to suitors of knowing that high officers of State are attending the Appeals both in the House of Lords and in the Privy Council.

5thly, Because the ecclesiastical authorities are almost excluded from the proposed Imperial Court, and their limited influence as assessors substituted for it.

6thly, Because the difficulties of creating Lords Chancellors and Lords Chief Justices Peers have been greatly exaggerated, and the difficulties at present existing resemble such as are pointed out in Lives of the Chief Justices, vol. iii. p. 184, line 2, and p. 291, line 10, and do not necessitate the incorporation of those who



may prefer Life Peerages, as members of the highest Court of Appeal in the United Kingdom.

7thly, Because, since the passing of the same Act, one hereditary Peer has been created for England, who might be able occasionally to assist in Appeals in this House, and an ex-Chancellor of Ireland has more abundant leisure to give weight to Appeals from Ireland, whilst the Lord Justice Clerk of Scotland, being an hereditary Peer, could always communicate on Appeals from Scotland with such noble Lords as may sit on Appeals in the House of Lords.

8thly, Because there is no provision for allowing Appellants and Defendants in Appeals from obtaining the judgment of the House of Lords, however much they may prefer it to any other Imperial Court of Appeal.

Thomas Denman, Lord Denman.

1st, Because by this Bill the House finally surrenders all its rights as an ultimate Court of Appeal, the duties of which it has performed, and is performing, in a manner which has given general satisfaction, as is proved by the fact that no public demand has been made for such surrender, and by many demonstrations, especially from the legal profession, in favour of its jurisdiction being retained.

2ndly, Because the surrender of a privilege which has brought so much credit to this House must be injurious to its character, and particularly as the House must appear to stand self-condemned as having lost that efficiency which has hitherto obtained for it the good opinion of the public, and as no longer able to perform properly those duties with which it has been entrusted for centuries.

3rdly, Because the uncalled-for change of a jurisdiction which has given satisfaction is inexpedient, and the transfer of it to a new and untried Court unwise.

4thly, Because there appear grave objections to the constitution of the new Court, which is to be composed of nine judges, three *ex officio*, the Lord Chancellor, who is at all times removable by the Crown, together with the Lord Chief Justice of England and the Master of the Rolls, who are to be changed alternately every two years for the Lord Chief Justice of the Common Pleas and the

Lord Chief Baron of the Exchequer, and six other judges to be appointed by the Crown in the first instance, and from time to time as vacancies occur, from the judges of the Imperial Court of Appeal for three years only, without prejudice to the re-nomination of a retiring judge.

5thly, Because this frequent transfer of judges between the Imperial Court of Appeal and this Court will impair its efficiency in regard to English causes, as it may frequently occur that judges who have already determined a cause will become members of it before such cause is re-heard by such Court, whereby the number of judges proper to re-hear the same may be inconveniently limited.

6thly, Because the power given to the Crown over the constitution of this Court of changing any of the six out of the nine judges composing it after a three years' tenure of office, together with the power of removing one of the three *ex officio* judges at will, subjects this new Court to the direct influence of the Crown in a manner which appears objectionable on constitutional grounds.

7thly, Because while appeals from Scotland and Ireland are to be conducted before the new Court in like manner substantially as now before this House, those in England are to be by re-hearing only, for the purpose of saving the expense to the suitors of new cases, and it is questionable whether the due administration of the law will be as effectually secured as by requiring new cases framed on the better understanding of the disputed points arrived at on both sides at the former hearings to be presented to the Court of Appeal.

John Thomas Freeman Mitford, Lord Redesdale.

Henry Edward John Stanley, Lord Stanley of Alderley.

The Bill was subsequently dropped, after a second reading in the Commons, on the 27th of July, and a short Act was passed, 37 and 38 Victoria, cap. 83, delaying the operation of the Act of 1873, and repealing the second section of it.

## INDEX OF SIGNATURES.

\*.\* The dates are those of succession or creation, and death. Titles in parentheses are those of Irish or Scotch peerages borne by English peers. Subsequent grants or successions are annexed to the first title: see below in the cases of Lords Abercorn, Aberdeen, and Abergavenny. The Roman numerals refer to the protests.

**Abercorn, Earl of:** James Hamilton, 1744-1789; Viscount Hamilton, 1786.

cccxlvi. cccxlv.

**Abercorn, Marquis of:** John James Hamilton, 1789-1818.

ccccxxxi.

**Abercorn, Marquis of:** James Hamilton, 1818. (Duke of Abercorn, 1868).

dcxlv. decccciv.

**Aberdeen, Earl of:** William Gordon, 1720-1745.

cxix. cc. cci. ccii. cciii. cciv. ccv. ccvi. ccvii. ccviii. ccix. ccx. ccxi. ccxii. ccxiv. ccxv. ccxvi. ccxvii. ccxviii. ccxix. ccxx. ccxxi. ccxxii. ccxxiii. ccxxiv. ccxxix. ccxxx. ccxxxi. ccxxxii. ccxxxiii. cclix. cclx. cclxi. cclxii. cclxiii. cclxiv.

**Aberdeen, Earl of:** George Gordon, 1745-1801.

ccccv.

**Aberdeen, Earl of:** George Gordon, 1801-1860; Viscount Gordon, 1814-1860.

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**Abergavenny, Lord:** George Nevill, 1660-1666.

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**Abergavenny, Lord:** George Nevill, 1695-1721.

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**Abergavenny, Lord:** William Nevill, 1724-1745.

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**Abergavenny, Lord:** George Nevill, 1745-1784; Earl of Abergavenny, 1784-1785.

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**Abergavenny, Earl of :** Henry Nevill, 1785-1843.  
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**Abergavenny, Earl of :** William Nevill, 1868.  
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**Abingdon, Earl of :** James Bertie, 1682-1699.  
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**Abingdon, Earl of :** Montagu Bertie, 1699-1743.  
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cccxvi.

**Abingdon, Earl of :** Willoughby Bertie, 1743-1762.  
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**Abingdon, Earl of :** Willoughby Bertie, 1762-1799.  
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**Abingdon, Earl of :** Montagu Bertie, 1799-1854.  
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**Abinger, Lord :** Robert Campbell Scarlett, 1844-1861.  
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**Ailesbury, Earl of :** Robert Bruce, 1664-1685. (Earl of Elgin.)  
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**Ailesbury, Earl of :** Thomas Bruce, 1685-1741. (Earl of Elgin.)  
lxxxviii. lxxxix. xciii. xcvi. ci.

**Ailesbury, Earl of :** Charles Bruce, 1741-1747. (Earl of Elgin.)  
cccxiv. cccxv. cccxvi. cccxvii. cccxviii. cccxix. cccxx.

**Ailesbury, Earl of :** Charles Bruce Brudenell Bruce, 1814-1821;  
Marquis of Ailesbury, 1821-1856.  
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**Ailesbury, Marquis of :** Charles Bruce Brudenell Bruce, 1821-1856.  
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**Ailsa, Lord :** Archibald Kennedy, 1806-1846. (Earl of Cassilis),  
(Marquis of Ailsa, 1831.)  
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**Airlie, Earl of :** David Ogilvy, 1819-1849.  
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**Albemarle, Duke of:** George Monk, 1660-1670.

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**Albemarle, Earl of:** George Keppel, 1754-1772.

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**Albemarle, Earl of:** William Charles Keppel, 1772-1849.

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**Albemarle, Earl of:** George Thomas Keppel, 1851.

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**Alvanley, Lord:** William Arden, 1804-1849.

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**Amherst, Earl:** William Pitt Amherst, 1857.

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**Ancaster and Kesteven, Duke of:** Peregrine Bertie, 1723-1742.

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**Ancaster and Kesteven, Duke of:** Peregrine Bertie, 1742-1778.

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**Annesley, Earl of:** Arthur Annesley, 1661-1686.

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**Annesley, Earl of:** James Annesley, 1690-1702.

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**Annesley, Earl of:** John Annesley, 1702-1710.

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**Annesley, Earl of:** Arthur Annesley, 1710-1737.

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ccc. ccc. cccii. ccciii.

**Annedale, Marquis of:** William Johnstone, 1701-1721.

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**Anson, Viscount:** Thomas William Anson, 1818-1831; **Earl of Lichfield,** 1831-1854.

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**Archer, Lord:** Andrew Archer, 1768-1778.

ccclxix. ccl. cccli. cccliii. cclxi. cclxv. cclxvi. cclxx. cclxxxii.

**Arden, Lord:** Charles George Perceval, 1802-1840.

dclxvi.

**Ardrossan, Lord:** Archibald William Montgomerie, 1819-61; (**Earl of Eglinton**).

deccxvi. decccxix. deccclvi.

**Arlington, Lord:** Henry Bennet, 1664-1672; **Earl of Arlington,** 1672-1685.

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**Armagh, Archbishop of :** John George de la Poer Beresford, 1822-1862.  
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**Arundell of Trerice, Lord :** John Arundell, 1688-1697.  
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**Arundell of Trerice, Lord :** John Arundell, 1706-1773.  
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**Arundell of Wardour, Lord :** Henry Arundell, 1648-1694.  
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**Arundell of Wardour, Lord :** Henry Benedict Arundell, 1834-62.  
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**Arundell of Wardour, Lord :** John Francis Arundell, 1862.  
dcccxi.

**Ashburnham, Lord :** John Ashburnham, 1689-1710.  
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**Ashburnham, Lord :** John Ashburnham, 1710-1730 ; Earl of Ashburnham, 1730-1737.  
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cxcix. ccxiv. ccxvi. ccxvii. ccxviii. ccxix. ccxxv. ccxxvi. ccxxvii.  
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**Ashburnham, Earl of :** John Ashburnham, 1737-1822.  
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**Ashburton, Lord :** Richard Barrè Dunning, 1783-1823.  
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**Ashburton, Lord :** Alexander Baring, 1835-48.  
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**Ashley, Lord :** Anthony Ashley Cooper, 1661-1672 ; Earl of Shaftesbury, 1672-1683.  
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**Auckland, Lord :** William Eden, 1793-1814.  
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**Auckland, Lord :** George Eden, 1814-1839 ; Earl of Auckland, 1839-1849.  
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**Auckland, Earl of :** George Eden, 1839-1849.  
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**Audley, Lord :** James Touchet, 1634-1684. (Earl of Castlehaven.)  
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**Audley, Lord :** James Touchet, 1686-1700. (Earl of Castlehaven.)  
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**Audley, Lord :** John Talbot Touchet, 1769-1777. (Earl of Castlehaven.)  
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**Audley, Lord :** George Thicknesse Touchet, 1777-1818.

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**Aylesford, Earl of :** Heneage Finch, 1714-1719.

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**Aylesford, Earl of :** Heneage Finch, 1719-1757.

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**Aylesford, Earl of :** Heneage Finch, 1757-1777.

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**Aylesford, Earl of :** Heneage Finch, 1777-1812.

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**Aylesford, Earl of :** Heneage Finch, 1812-1859.

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**Balmerino, Lord :** John Elphinstone, 1704-1736.

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**Bandon, Earl of :** James Bernard, 1830-1856.

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**Bandon, Earl of :** Francis Bernard, 1856.

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**Bangor, Bishop of :** Humphrey Humphreys, 1689-1701.

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**Bangor, Bishop of :** John Evans, 1701-1715.

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**Bangor, Bishop of :** John Egerton, 1756-1769.

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**Bangor, Bishop of :** John Ewer, 1769-1774.

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**Bangor, Bishop of :** John Warren, 1783-1800.

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**Bangor, Bishop of :** Christopher Bethel, 1830-1859.

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**Bantry, Earl of :** William Henry Hare Hedges White, 1868.

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**Barham, Lord :** Charles Noel, 1823-1841; Earl of Gainsborough,  
1841-1866.

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**Barnard, Lord :** Christopher Vane, 1698-1723.

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**Bath, Earl of :** Henry Bouchier, 1636-1654.  
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**Bath, Earl of :** John Granville, 1661-1701.  
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**Bath, Marquis of :** John Alexander Thynne, 1837.  
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**Bath and Wells, Bishop of :** Arthur Lake, 1616-1626.  
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**Bath and Wells, Bishop of :** William Pierce, 1632-1670.  
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**Bath and Wells, Bishop of :** Richard Kidder, 1691-1703.  
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**Bath and Wells, Bishop of :** George Hooper, 1704-1727.  
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**Bath and Wells, Bishop of :** George Henry Law, 1824-1845.  
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**Bath and Wells, Bishop of :** Richard Bagot, 1845-1854.  
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**Bathurst, Lord :** Allen Bathurst, 1712-1772; Earl Bathurst, 1772-1775.

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**Bathurst, Earl :** Henry Bathurst, 1775-1794.  
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**Bathurst, Earl :** Henry Bathurst, 1794-1834.  
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**Bathurst, Earl :** William Lennox Bathurst, 1866.  
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**Bayning, Lord :** Henry William Powlett, 1823-1866.  
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**Beauchamp, Earl :** John Reginald Beauchamp Pyndar, 1823-1853.  
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**Beauchamp, Earl:** Frederic William Lygon, 1866.  
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**Beaufort, Duke of:** Henry Somerset, 1699-1714.  
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**Beaufort, Duke of:** Henry Somerset, 1714-1746.  
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**Beaufort, Duke of:** Charles Noel Somerset, 1746-1756.  
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**Beaufort, Duke of:** Henry Charles Somerset, 1803-1835.  
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**Beaufort, Duke of:** Henry Somerset, 1835-1853.  
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**Beaulieu, Lord:** Edward Hussey Montagu, 1762-1784; Earl of  
Beaulieu, 1784-1802.  
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**Beaumont, Lord:** Miles Thomas Stapleton, 1840-1854.  
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**Bedford, Earl of:** Francis Russell, 1627-1641.  
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**Bedford, Earl of:** William Russell, 1641-1694; Duke of Bedford,  
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**Bedford, Duke of:** Wriothesley Russell, 1700-1711.  
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**Bedford, Duke of:** Wriothesley Russell, 1711-1732.  
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**Bedford, Duke of:** John Russell, 1732-1771.  
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**Bedford, Duke of:** Francis Russell, 1771-1802.  
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**Bedford, Duke of:** John Russell, 1802-1839.  
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**Belhaven, Lord:** John Hamilton, 1708-1721.  
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- Belhaven and Stenton, Lord** : Robert Montgomery Hamilton, 1814-1868; English Peer, 1831.  
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- Belmore, Earl of** : Somerset Lowry Corry, 1802-1841.  
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- Belmore, Earl of** : Somerset Henry Lowry Corry, 1845.  
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- Beresford, Viscount** : William Carr Beresford, 1823-1854.  
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- Berkeley, Lord** : George Berkeley, 1658-1679; Earl of Berkeley, 1679-1698.  
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- Berkeley, Earl of** : George Berkeley, 1679-1698.  
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- Berkeley, Earl of** : Charles Berkeley, 1698-1710.  
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- Berkeley, Earl of** : James Berkeley, 1710-1736.  
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- Berkeley, Earl of** : Frederic Augustus Berkeley, 1755-1810.  
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- Berkeley of Berkeley, Lord** : Charles Berkeley, 1689-1698.  
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- Berkeley of Stratton, Lord** : John Berkeley, 1658-1678.  
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- Berkeley of Stratton, Lord** : John Berkeley, 1682-1697.  
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- Berkeley of Stratton, Lord** : William Berkeley, 1697-1741.  
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- Berkeley of Stratton, Lord** : John Berkeley, 1741-1773.  
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- Berkshire, Earl of** : Thomas Howard, 1626-1669.  
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- Berkshire, Earl of** : Charles Howard, 1669-1679.  
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- Berkshire, Earl of** : Henry Bowes Howard, 1706-1745; and Earl of Suffolk, 1745-1757.  
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- Berwick, Lord** : Richard Noel Hill, 1842-1848.  
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**Beverley, Earl of:** George Percy, 1830-1865; Duke of Northumberland, 1865-1869.

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**Bexley, Lord:** Nicholas Vansittart, 1823-1851.

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**Bingley, Lord:** Robert Benson, 1713-1730.

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**Blantyre, Lord:** Walter Stuart, 1704-1713.

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**Bolingbroke, Earl of:** Oliver St. John, 1624-1646.

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**Bolingbroke, Earl of:** Oliver St. John, 1646-1688.

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**Bolingbroke, Earl of:** Paulet St. John, 1688-1711.

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**Bolingbroke, Viscount:** Frederic St. John, 1751-1787.

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**Bolton, Duke of:** Charles Paulet, 1689-1699.

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**Bolton, Duke of:** Charles Paulet, 1699-1722.

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**Bolton, Duke of:** Charles Paulet, 1722-1754.

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**Bolton, Duke of:** Charles Paulet, 1759-1765.

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**Bolton, Duke of:** Harry Paulet, 1765-1794.

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**Bolton, Lord:** William Orde Poulett, 1807-1850.

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**Boston, Lord:** Frederic Irby, 1775-1825.

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**Boston, Lord:** George Irby, 1825-1856.

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**Boyle, Lord:** Charles Boyle, 1711-1737. (Earl of Orrery.)

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**Boyle, Lord :** John Boyle, 1737-1762. (Earl of Cork and Orrery.)  
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**Boyle, Lord :** Edmund Boyle, 1764-1798. (Earl of Cork and Orrery.)  
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**Bradford, Earl of :** Francis Newport, 1694-1708.  
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**Bradford, Earl of :** Richard Newport, 1708-1723.  
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**Bradford, Earl of :** George Augustus Frederic Henry Bridgman, 1825-1865.  
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**Breadalbane, Lord :** John Campbell, 1806-1834. (Earl of Breadalbane.)  
 Marquis of Breadalbane, 1831-34.  
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**Breadalbane, Marquis of :** John Campbell, 1834-1862.  
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**Brecknock, Earl of :** James Butler, 1660-1682. (Duke of Ormonde, 1661.) Duke of Ormonde, 1682-1688.  
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**Bridgewater, Earl of :** John Egerton, 1649-1686.  
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**Bridgewater, Earl of :** John Egerton, 1686-1701.  
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**Bridgewater, Earl of :** Scroop Egerton, 1701-1720; Duke of, 1720-1745.  
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**Bridgewater, Duke of :** Scroop Egerton, 1720-1745.  
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**Bridgewater, Duke of :** Francis Egerton, 1748-1803.  
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**Bridgewater, Earl of :** John William Egerton, 1803-1823.  
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**Bristol, Earl of :** George Digby, 1653-1676.  
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**Eristol, Earl of: John Digby, 1676-1698.**

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**Bristol, Earl of: John Hervey, 1714-1751.**

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**Bristol, Earl of: Augustus John Hervey, 1755-1779.**

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**Bristol, Bishop of: Gilbert Ironside, 1689-1691.**

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**Bristol, Bishop of: John Robinson, 1710-1713.**

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**Bristol, Bishop of: George Smallridge, 1714-1719.**

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**Bristol, Bishop of: Thomas Newton, 1761-1782.**

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**Bristol, Bishop of: Christopher Wilson, 1783-1792.**

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**Bristol, Bishop of: Robert Gray, 1827-1834.**

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**Brodrick, Lord: George Alan Brodrick, 1836-1848. (Viscount Midleton.)**

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**Brodrick, Lord: William John Brodrick, 1863-1870. (Viscount Midleton.)**

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**Brooke, Lord: Robert Greville, 1628-1642.**

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**Brooke, Lord: Fulke Greville, 1676-1710.**

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**Brooke, Lord: William Greville, 1711-1727.**

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**Brooke and Warwick, Earl: Francis Greville, 1746; Earl of Warwick, 1759-1773.**

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**Brooke and Warwick, Earl: Henry Richard Greville, 1816-1853.**

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**Brooke and Warwick, Earl: George Guy Greville, 1853.**

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**Brougham and Vaux**, Lord : Henry Brougham, 1830-1868.  
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**Brownlow**, Earl : John Cust, 1807-1853.  
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**Bruce of Whorlton**, Lord : Thomas Bruce, 1641-1643. (Earl of Elgin.)  
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**Bruce of Whorlton**, Lord : Charles Bruce; Earl of Ailesbury; summoned *vita patris* 1711-1741.  
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**Brudenell**, Lord : Thomas Brudenell, 1628-1661; Earl of Cardigan,  
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**Buccleuch**, Duke of : Francis Scott, 1732-1751.  
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**Buchan**, Earl of : David Erskine, 1715-1745.  
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**Buckingham**, Duke of : George Villiers, 1629-1687.  
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**Buckingham**, Duke of : John Sheffield, 1703-1720; and Duke of  
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**Buckingham**, Marquis of : George Grenville Nugent Temple, 1784-  
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**Buckingham**, Marquis of : Richard Grenville Brydges Chandos, 1813-  
 1822; Duke of Buckingham and Chandos, 1822-1839.  
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**Buckingham and Chandos**, Duke of : Richard Nugent Temple Brydges  
 Chandos Grenville, 1822-1839.  
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**Buckingham and Chandos**, Duke of : Richard Plantagenet Temple  
 Nugent Brydges Chandos Grenville, 1839-1861.  
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**Buckinghamshire**, Earl of : John Hobart, 1756-1793.  
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**Buckinghamshire**, Earl of : George Hobart, 1793-1804.  
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- Buckinghamshire**, Earl of : Robert Hobart, 1804-1816.  
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- Burlington**, Earl of : Richard Boyle, 1664-1697. (Earl of Cork.)  
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- Burlington**, Earl of : Charles Boyle, 1697-1704. (Earl of Cork.)  
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- Burlington**, Earl of : Richard Boyle, 1704-1735. (Earl of Cork.)  
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- Burlington**, Earl of : William Cavendish, 1834-1858 ; Duke of Devonshire, 1858.  
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- Bute**, Earl of : James Stuart, 1710-1723.  
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- Bute**, Marquis of : John Stuart, 1814-1848.  
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- Butler**, Lord : Walter Butler, 1801-1820. (Marquis of Ormonde.)  
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- Byron**, Lord : Richard Byron, 1652-1679.  
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- Cadogan**, Lord : Charles Cadogan, 1726-1776.  
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- Cadogan**, Lord : Charles Sloane Cadogan, 1776-1800 ; Earl Cadogan, 1800-1807.  
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- Cadogan**, Earl : George Cadogan, 1832-1864.  
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- Cairns**, Lord : Hugh Mac Calmont Cairns, 1867.  
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- Caledon**, Earl of : Du Prè Alexander, 1802-1839.  
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- Calthorpe**, Lord : George Calthorpe, 1807-1851.  
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- Cambridge**, Duke of : Adolphus Frederic, 1801-1850.  
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- Camden**, Lord : Charles Pratt, 1765-1786 ; Earl Camden, 1786-1794.  
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- Camden**, Earl : John Jeffreys Pratt, 1794-1812 ; Marquis Camden, 1812-1840.  
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- Camden**, Marquis, John Jeffreys Pratt, 1812-1840.  
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- Camelford**, Lord : Thomas Pitt, 1793-1804.  
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**Camoyo**, Lord : Thomas Stonor, 1839.  
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**Campbell**, Lord : John Campbell, 1841-1861.  
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**Campden**, Viscount : Baptist Noel, 1643-1682.  
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**Camperdown**, Earl of : Robert Dundas Duncan Haldane, 1804-1859.  
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**Canning**, Viscount : Charles John Canning, 1837-1859; Earl Canning, 1859-1862.  
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**Canterbury**, Archbishop of : George Abbot, 1611-1633.  
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**Canterbury**, Archbishop of : Thomas Tenison, 1694-1715.  
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**Canterbury**, Viscount : Charles Manners Sutton, 1835-1845.  
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**Canterbury**, Viscount : Charles John Manners Sutton, 1845-1869.  
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**Capel**, Lord : Arthur Capel, 1641-1648.  
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**Capel**, Lord : Arthur Capel, 1648-1661; Earl of Essex, 1661-1683.  
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**Carbery**, Lord : John Evans Freke, 1807-1852.  
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**Cardiff**, Lord : John Stuart, 1766-1796; Marquis of Bute, 1796-1814.  
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**Cardigan**, Earl of : Robert Brudenell, 1664-1703.  
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**Cardigan**, Earl of : George Brudenell, 1703-1732.  
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**Cardigan**, Earl of : George Brudenell, 1732-1766; Duke of Montagu, 1766-1790.  
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**Cardigan**, Earl of : James Thomas Brudenell, 1837-1868.  
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**Carew**, Lord : Robert Shapland Carew, 1838-1856.  
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**Carleton**, Lord : Henry Boyle, 1714-1725.  
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**Carleton**, Lord : Richard Boyle, 1842-1868. (Earl of Shannon.)  
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**Carlisle**, Earl of : James Hay, 1636-1660.  
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**Carlisle**, Earl of : Charles Howard, 1661-1686.  
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**Carlisle**, Earl of : Charles Howard, 1692-1738.  
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**Carlisle**, Earl of : Henry Howard, 1738-1758.  
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**Carlisle**, Earl of : Frederic Howard, 1758-1825.  
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**Carlisle**, Earl of : George Howard, 1825-1848.  
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**Carlisle**, Bishop of : William Nicholson, 1702-1718.  
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**Carlisle**, Bishop of : Charles Lyttelton, 1762-1768.  
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**Carlisle**, Bishop of : Edmund Law, 1769-1787.  
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**Carlisle**, Bishop of : Hugh Percy, 1827-1856.  
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**Carnarvon**, Earl of : Charles Dormer, 1643-1709.  
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**Carnarvon**, Earl of : Henry Herbert, 1793-1811.  
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**Carnarvon**, Earl of : Henry George Herbert, 1811-1833.  
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**Carnarvon**, Earl of : Henry John George Herbert, 1833-1849.  
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**Carnarvon**, Earl of : Henry Howard Molyneux Herbert, 1849.  
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**Carrick**, Earl of : Somerset Richard Butler, 1813-1838.  
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**Carrington**, Lord : Robert Smith, 1797-1838.  
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**Carteret**, Lord : George Carteret, 1681-1695.  
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**Carteret**, Lord : John Carteret, 1695-1744; Earl Granville, 1744-  
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**Carysfort, Lord :** John Joshua Proby, 1801-1828. (Earl of Carysfort.)  
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**Cashel, &c., Bishop of :** Robert Daly, 1843-1871.  
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**Cassilis, Earl of :** David Kennedy, 1775-1792.  
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**Castlemaine, Lord :** Richard Handcock, 1840-1869.  
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**Castle Stuart, Earl of :** Robert Stewart, 1809-1854.  
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**Castleton, Viscount :** James Saunderson, 1716-1723.  
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**Cathcart, Viscount :** William Shaw Cathcart, 1807-1814 ; Earl Cath-  
cart, 1814-1843.  
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**Cathcart, Earl :** William Shaw Cathcart, 1814-1843.  
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**Cathcart, Earl :** Charles Murray Cathcart, 1843-1859.  
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**Cawdor, Lord :** John Campbell, 1796-1821.  
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**Cawdor, Earl of :** John Frederic Campbell, 1827-1860.  
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**Chandos, Lord :** George Bruges, 1621-1654.  
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**Chandos, Lord :** William Bruges, 1654-1676.  
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**Chandos, Lord :** James Brydges, 1676-1714.  
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**Chandos, Duke of :** James Brydges, 1771-1789.  
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**Charlemont, Earl of :** Francis William Caulfield, 1799-1863 ; Lord  
Charlemont, 1837-1863.  
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**Charleville, Earl of :** Charles William Bury, 1835-1851.  
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**Chatham, Earl of :** William Pitt, 1766-1778.  
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**Chatham, Earl of :** John Pitt, 1778-1835.  
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**Chaworth, Lord:** John Chambre Brabazon, 1831-1851. (Earl of Meath, 1797-1851.)  
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**Chedworth, Lord:** Henry Frederic Howe, 1762-1781.  
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**Chedworth, Lord:** John Howe, 1781-1804.  
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**Chelmsford, Lord:** Frederic Thesiger, 1858.  
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**Chester, Bishop of:** Nicholas Strafford, 1689-1708.  
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**Chester, Bishop of:** Sir William Dawes, 1708-1714. Archbishop of York.  
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**Chester, Bishop of:** Francis Gastrell, 1714-1725.  
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**Chester, Bishop of:** John Bird Sumner, 1828-1848.  
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**Chesterfield, Earl of:** Philip Stanhope, 1656-1713.  
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**Chesterfield, Earl of:** Philip Dormer Stanhope, 1726-1773.  
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**Chesterfield, Earl of:** Philip Stanhope, 1773-1815.  
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**Chesterfield, Earl of:** George Stanhope, 1815-1866.  
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**Chichester, Bishop of:** Henry King, 1642-1669.  
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**Chichester, Bishop of:** John Williams, 1696-1709.  
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**Chichester, Bishop of:** Thomas Manningham, 1709-1722.  
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**Cholmondeley, Lord:** Hugh Cholmondeley, 1689-1706; Earl Cholmondeley, 1706-1725.  
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**Cholmondeley, Earl of:** Hugh Cholmondeley, 1706-1725.  
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**Cholmondeley, Earl of:** George James Cholmondeley, 1770-1815 ;  
Marquis Cholmondeley, 1815-1827.

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**Cholmondeley, Marquis of:** George James Horatio Cholmondeley,  
1827-1870.  
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**Churchill, Lord:** Francis Almeric Spencer, 1815-1845.  
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**Churston, Lord:** John Yarde Buller, 1858-1871.  
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**Clanbrassil, Lord:** Robert Jocelyn, 1821-1870. (Earl of Roden.)  
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**Clancarty, Earl of:** Richard le Poer Trench, 1805-1837 ; Lord Trench,  
1815-1823 ; Viscount Clancarty, 1823-1837.  
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**Clancarty, Viscount:** William Thomas Le Poer Trench, 1837-1872.  
(Earl of Clancarty.)  
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**Clancarty, Viscount:** Richard Somerset Le Poer Trench, 1872. (Earl  
of Clancarty.)  
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**Clanwilliam, Lord:** Richard Charles Francis Meade, 1828. (Earl of  
Clanwilliam, 1805.)  
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**Clare, Earl of:** John Holles, 1637-1665.  
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**Clare, Earl of:** Gilbert Holles, 1665-1689.  
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**Clare, Earl of:** John Holles, 1689-1694 ; Duke of Newcastle, 1694-  
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**Clarence, Duke of:** William Henry, 1789-1830 ; William IV, 1830.  
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**Clarendon, Earl of:** Edward Hyde, 1661-1674.  
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**Clarendon, Earl of:** Henry Hyde, 1674-1709.  
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**Clarendon, Earl of:** Edward Hyde, 1709-1723.  
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**Clarendon, Earl of:** John Charles Villiers, 1824-1838.  
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- Clarendon, Earl of :** George William Frederic Villiers, 1838-1870.  
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- Clarina, Lord :** Eyre Massey, 1810-1872.  
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- Clements, Lord :** Nathaniel Clements, 1831-1854. (Earl of Leitrim,  
 1804-1854.)  
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- Clements, Viscount :** William Sydney Clements, 1854. (Earl of  
 Leitrim.)  
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- Cleveland, Earl of :** Thomas Wentworth, 1626-1667.  
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- Cleveland, Duke of :** William Henry Vane, 1833-1842.  
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- Cleveland, Duke of :** Henry Vane, 1842-1864.  
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- Clifford of Chudleigh, Lord :** Hugh Clifford, 1673-1730.  
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- Clifford of Chudleigh, Lord :** Hugh Charles Clifford, 1831-1858.  
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- Clifton, Lord :** Edward Bligh, 1728-1747. (Earl of Darnley.)  
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- Clifton, Lord :** John Bligh, 1747-1781. (Earl of Darnley.)  
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- Clifton, Lord :** John Bligh, 1781-1831. (Earl of Darnley.)  
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- Clinton, Lord :** Hugh Fortescue, 1721-1746; Earl Clinton, 1746-1751.  
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- Clinton, Lord :** Robert Cotton St. John Trefusis, 1797-1832.  
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- Clonbrock, Lord :** Robert Dillon, 1826.  
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- Cloncurry, Lord :** Valentine Browne Lawless, 1799-1853; Lord Clon-  
 curry, 1831-1853.  
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- Cloncurry, Lord :** Edward Lawless, 1853-1869.  
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- Cobham, Viscount :** Richard Temple, 1718-1749.  
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**Colborne, Lord :** Nicholas William Ridley Colborne, 1839-1854.  
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**Colchester, Lord :** Charles Abbot, 1817-1829.  
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**Colchester, Lord :** Charles Abbot, 1829-1867.  
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**Colchester, Lord :** Reginald Charles Edward Abbot, 1867.  
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**Colville of Culross, Lord :** John Colville, 1811-1849.  
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**Colville of Culross, Lord :** Charles John Colville, 1849.  
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**Combermere, Viscount :** Stapleton Cotton, 1827-1865.  
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**Compton, Lord :** James Compton ; summoned *vita patris* 1711-1727.  
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**Coningsby, Earl of :** Thomas Coningsby, 1719-1729.  
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**Conway, Viscount :** Edward Conway, 1630-1655.  
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**Conway, Viscount :** Edward Conway, 1655-1679 ; Earl of Conway,  
1679-1683.  
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**Conway, Lord :** Francis Seymour Conway, 1703-1732.  
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**Conyngham, Marquis of :** Henry Conyngham, 1816-1832 ; Lord  
Minster, 1821.  
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**Cork and Cloyne, Bishop of :** Samuel Kyle, 1831-1848.  
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**Cornwallis, Lord :** Charles Cornwallis, 1662-1673.  
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**Cornwallis, Lord :** Charles Cornwallis, 1673-1698.  
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**Cornwallis, Lord :** Charles Cornwallis, 1698-1722.  
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**Craven, Lord : William Craven, 1697-1711.**

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**Craven, Lord : William Craven, 1711-1739.**

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**Craven, Lord : Fulwar Craven, 1739-1764.**

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**Craven, Lord : William Craven, 1769-1791.**

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**Crawford, Earl of : John Lindsay, 1698-1718.**

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**Crewe, Lord : Thomas Crewe, 1679-1697.**

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**Crewe, Lord : Nathaniel Crewe, 1697-1722 ; Bishop of Durham, 1674-1722.**

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**Crewe, Lord : John Crewe, 1806-1829.**

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**Crofton, Lord : Edward Churchill, 1817-1869.**

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**Culpeper, Lord : Thomas Culpeper, 1660-1688.**

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**Culpeper, Lord : John Culpeper, 1688-1719.**

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**Cumberland, Duke of : George of Denmark, 1699-1708.**

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**Cumberland, Duke of : Henry Frederic, 1766-1790.**

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**Cumberland, Duke of : Ernest Augustus, 1799-1851.**

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**Dacre, Lord : Francis Lennard, 1630-1662.**

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**Dacre, Lord : Thomas Barrett Lennard, 1755-1786.**

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**Dacre, Lord : Thomas Brand, 1819-1851.**

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**Danby, Earl of:** Thomas Osborne, 1674-1689; Marquis of Carmarthen, 1689-1694; Duke of Leeds, 1694-1712.  
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**Danvers, Lord:** Henry Danvers, 1603-1626; Earl of Danby, 1626-1644.  
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**Darlington, Earl of:** William Henry Vane, 1792-1827; Marquis of Cleveland, 1827-1833; Duke of Cleveland, 1833-1842.  
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**Dartmouth, Lord:** George Legge, 1682-1691.  
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**Dartmouth, Lord:** William Legge, 1691-1711; Earl of Dartmouth, 1711-1750.  
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**Dartmouth, Earl of:** William Legge, 1711-1750.  
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**Dartmouth, Earl of:** William Legge, 1750-1801.  
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**Dartmouth, Earl of:** William Legge, 1810-1853.  
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**Dartmouth, Earl of:** William Walter Legge, 1853.  
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**Dawnay, Lord:** John Christopher Burton Dawnay, 1796-1832. (Viscount Downe.)  
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**De Clifford, Lord:** Edward Southwell Clifford, 1777-1832.  
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**De Dunstanville and Basset, Lord:** Francis Basset, 1796-1835.  
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**De Ferrars, Lord:** George Townshend, 1770-1807; Marquis Townshend, 1807-1811.  
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**De Freyne, Lord:** Arthur French, 1839-1856.  
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**Delamere, Lord:** George Booth, 1661-1684.  
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**Delamere, Lord:** Henry Booth, 1684-1690; Earl of Warrington, 1690-1693.  
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**Delamere, Lord:** Thomas Cholmondeley, 1821-1855.  
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**Delawarr, Lord :** Charles West, 1628-1687.

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**Delawarr, Lord :** John West, 1687-1723.

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**Delawarr, Earl :** George John West, 1795-1869.

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**De Lisle and Dudley, Lord :** Philip Charles Sidney, 1835-1851.

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**De Longueville, Viscount :** Henry Yelverton, 1690-1704.

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**De Longueville, Viscount :** Talbot Yelverton, 1704-1717; Earl of Sussex, 1717-1731.

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**Deloraine, Earl of :** Henry Scott, 1706-1730.

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**De Mauley, Lord :** William Francis Spencer Ponsonby, 1838-1855.

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**Denbigh, Earl of :** Basil Feilding, 1643-1675.

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**Denbigh, Earl of :** Basil Feilding, 1685-1717.

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**Denbigh, Earl of :** William Feilding, 1717-1755.

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**Denbigh, Earl of :** William Basil Percy Feilding, 1800-1865.

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**Denbigh, Earl of :** Rudolph William Basil Feilding, 1865.

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**Denman, Lord :** Thomas Denman, 1834-1854.

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**Denman, Lord :** Thomas Denman, 1854.

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**Derby, Earl of :** Charles Stanley, 1651-1672.

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**Derby, Earl of :** William George Richard Stanley, 1672-1702.

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**Derby, Earl of :** James Stanley, 1702-1736.

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**Derby, Earl of :** Edward Smith Stanley, 1776-1834.  
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**Derby, Earl of :** Edward Geoffrey Smith Stanley, 1851-1869.  
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**De Ros, William Lennox Lascelles Fitzgerald de Ros,** 1839.  
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**Derry and Raphoe, Bishop of :** Richard Ponsonby, 1831-1853.  
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**Desart, Earl of :** Otway O'Connor Cuffe, 1820-1865.  
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**De Vesce, Viscount :** Thomas Vesce, 1855.  
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**Devon, Earl of :** William Courtenay, 1835-1859.  
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**Devonshire, Earl of :** William Cavendish, 1684-1694 ; Duke of Devon-  
shire, 1694-1707.  
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**Devonshire, Duke of :** William Cavendish, 1694-1707.  
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**Devonshire, Duke of :** William Cavendish, 1707-1729.  
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**Devonshire, Duke of :** William Cavendish, 1755-1764.  
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**Devonshire, Duke of :** William Cavendish, 1764-1811.  
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**Digby, Earl :** Edward Digby, 1793-1856.  
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**Digby, Lord :** Edward St. Vincent Digby, 1856.  
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**Dinorben, Lord :** William Lewis Hughes, 1831-1852.  
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**Doncaster, Earl of :** Walter Francis Montagu Douglas Scott, 1819.  
(Duke of Buccleuch.)  
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**Doneraile, Viscount :** Hayes St. Leger, 1819-1854.  
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- Donoughmore, Earl of :** Richard Hely Hutchinson, 1800-1825.  
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- Dorchester, Earl of :** George Damer, 1798-1808.  
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- Dorchester, Marquis of :** Henry Pierrepont, 1644-1680.  
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- Dorchester, Marquis of :** Evelyn Pierrepont, 1706-1715.  
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- Dormer, Lord :** Joseph Thaddeus Dormer, 1826-1871.  
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- Dorset, Earl of :** Richard Sackville, 1652-1677.  
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- Dorset, Earl of :** Charles Sackville, 1677-1706.  
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- Dorset, Earl of :** Lionel Cranfield Sackville, 1706-1720; Duke of  
Dorset, 1720-1763.  
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- Dorset, Duke of :** Charles Sackville, 1763-1769.  
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- Dorset, Duke of :** John Frederic Sackville, 1769-1799.  
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- Douglas, Lord :** William Douglas, 1786-1810. (Duke of Queensberry).  
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- Douglas, Lord :** Archibald Douglas, 1827-1844.  
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- Douglas of Lochleven, Lord :** George Douglas, 1791-1827. (Earl of  
Morton.)  
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- Dover, Earl of :** Henry Carey, 1628-1668.  
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- Dover, Earl of :** John Carey, 1668-1677.  
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- Dover, Duke of :** James Douglas, 1708-1711. (Duke of Queensberry.)  
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- Downshire, Marquis of :** Arthur Wills Blundell Sandys Trumbull  
Windsor Hill, 1845-1868.  
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- Dublin, Archbishop of :** Richard Whateley, 1831-1864.  
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- Dublin, Archbishop of :** Richard Chevenix Trench, 1864.  
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- Dudley, Lord :** Edward Sutton, 1593-1643.  
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- Dudley and Ward, Viscount:** John Ward, 1763-1774.  
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- Dunalley, Lord:** Henry Prittic, 1801-1854.  
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- Duncan, Viscount:** Robert Dundas Duncan, 1804-1831; Earl of Camperdown, 1831-1859.  
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- Duncannon, Lord:** John William Ponsonby, 1834-1847. (Earl of Bessborough, 1844-1847.)  
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- Dundas, Lord:** Thomas Dundas, 1794-1820.  
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- Dundas, Lord:** Laurence Dundas, 1820-1838; Earl of Zetland, 1838-1839.  
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- Dungannon, Viscount:** Arthur Hill Trevor, 1837-1862.  
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- Dunmore, Earl of:** John Murray, 1756-1809.  
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- Dunamore, Lord:** Francis Leigh, 1628-1644; Earl of Chichester, 1644-1653.  
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- Dunsandle and Clanconal, Denis St. George Daly, 1847.**  
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- Dunsany, Lord:** Edward Plunkett, 1852.  
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- Durham, Lord:** John George Lambton, 1828-1833; Earl of Durham, 1833-1840.  
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- Durham, Earl of:** John George Lambton, 1833-1840.  
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- Durham, Bishop of:** Richard Neale, 1617-1627.  
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- Durham, Bishop of:** Thomas Moreton, 1632-1659.  
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- Durham, Bishop of:** John Cosin, 1660-1672.  
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- Durham, Bishop of:** Nicholas Crewe, 1674-1722.  
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- Durham, Bishop of:** Richard Trevor, 1752-1771.  
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- Dutton, Lord:** Alexander Hamilton, summoned *vita patris*, 1806-1819.  
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**Dynevor**, Lord: George Talbot Rice, 1793-1852.  
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**Effingham**, Lord: Francis Howard, 1681-1695.  
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**Effingham**, Earl of: Thomas Howard, 1763-1791.  
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**Eglinton**, Earl of: Alexander Seton, 1701-1729.  
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**Eglinton**, Earl of: Alexander Montgomerie, 1729-1769.  
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**Eglinton**, Earl of: Archibald Montgomerie, 1769-1796.  
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**Egremont**, Earl of: George O'Brien Wyndham, 1763-1837.  
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**Eldon**, Lord: John Scott, 1799-1821; Earl of Eldon, 1821.  
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**Eldon**, Earl of: John Scott, 1821-1838.  
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**Eldon**, Earl of: John Scott, 1838-1854.  
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**Eliot**, Lord: John Craggs Eliot, 1804-1815; Earl St. Germans, 1815-1823.  
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**Ellenborough**, Lord: Edward Law, 1818-1844; Earl of Ellenborough, 1844.  
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**Ellenborough**, Earl of: Edward Law, 1844-1871.  
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**Ellenborough**, Lord: Charles Edmund Law, 1871.  
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**Ely**, Bishop of: Matthew Wren, 1638-1667.  
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**Ely**, Bishop of: Simon Patrick, 1691-1707.  
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**Ely**, Bishop of: John Moore, 1707-1714.  
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**Ely**, Bishop of: Joseph Allen, 1836-1845.  
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**Ely**, Bishop of: Edward Harold Browne, 1864-1873.  
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**Enniskillen**, Earl of: John Willoughby Cole, 1803-1840; Lord Grinstead, 1815.  
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**Erskine**, Lord: Thomas Erskine, 1806-1823.  
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**Essex**, Earl of: Robert Devereux, 1603-1646.  
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**Essex**, Earl of: Arthur Capell, 1661-1683.  
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**Essex**, Earl of: Algernon Capel, 1683-1709.  
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**Essex**, Earl of: William Capel, 1709-1743.  
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**Essex**, Earl of: William Anne Holles Capell, 1743-1799.  
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**Essex**, Earl of: George Capel, 1799-1839.  
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**Eure**, Lord: Ralph Eure, 1672-1698.  
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**Exeter**, Earl of: David Cecil, 1640-1643.  
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**Exeter**, Earl of: John Cecil, 1643-1678.  
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**Exeter**, Earl of: Brownlow Cecil, 1722-1754.  
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**Exeter**, Marquis of: Brownlow Cecil, 1804-1867.  
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**Exeter**, Marquis of: William Alleyne Cecil, 1867.  
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**Exeter**, Bishop of: Sir Jonathan Trelawny, 1688-1707.  
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**Exeter**, Bishop of: Frederic Keppel, 1762-1777.  
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**Exeter**, Bishop of: Henry Philpotts, 1830-1868.  
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**Exmouth**, Viscount: Edward Pellew, 1816-1833.  
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- Falmouth, Viscount:** Hugh Boscawen, 1734-1782.  
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- Falmouth, Viscount:** Edward Boscawen, 1808-1821; **Earl Falmouth,** 1821-1841.  
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- Farnborough, Lord:** Charles Long, 1826-1838.  
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- Farnham, Earl of:** John James Maxwell, 1800-1823.  
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- Farnham, Lord:** John Maxwell Barry, 1823-1838.  
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- Farnham, Lord:** Henry Maxwell, 1838-1868.  
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- Fauconberg, Viscount:** Thomas Belasyse, 1652-1689; **Earl Fauconberg,** 1689-1700.  
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- Ferrers, Earl:** Laurence Shirley, 1745-1760.  
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- Ferrers, Earl:** Washington Shirley, 1760-1778.  
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- Ferrers, Earl:** Robert Shirley, 1778-1787.  
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- Ferrers, Earl:** Washington Ferrers, 1827-1843.  
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- Ferrers of Chartley, Lord:** Robert Shirley, 1677-1711; **Earl Ferrers,** 1711-1717.  
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- Feversham, Earl of:** Lewis de Duras, 1677-1709.  
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- Feversham, Lord:** Charles Duncombe, 1826-1841.  
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- Feversham, Lord:** William Duncombe, 1841-1867.  
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- Feversham, Earl of:** William Ernest Duncombe, 1868.  
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- Findlater, Earl of:** James Ogilvy, 1711-1730.  
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- Fingall, Lord:** Arthur James Plunkett, 1836-1869. (**Earl of Fingall.**)  
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- Fitzgerald, Lord:** William Fitzgerald, 1835-1843. (**Lord Fitzgerald and Vescy,** 1832.)  
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**Fitzgibbon, Lord :** John Fitzgibbon, 1802-1851. (Earl of Clare.)  
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**Fitzwalter, Lord :** Benjamin Mildmay, 1669-1679.  
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**Fitzwalter, Lord :** Charles Mildmay, 1679-1728.  
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**Fitzwalter, Lord :** Brook William Bridges, 1868.  
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**Fitzwilliam, Earl :** William Wentworth Fitzwilliam, 1756-1833.  
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**Fitzwilliam, Earl :** Charles William Fitzwilliam, 1833-1857.  
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**Foley, Lord :** Thomas Foley, 1712-1733.  
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**Foley, Lord :** Thomas Foley, 1733-1766.  
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cccl.

**Foley, Lord :** Thomas Foley, 1777-1793.  
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**Foley, Lord :** Thomas Foley, 1793-1833.  
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**Foley, Lord :** Thomas Henry Foley, 1833-1869.  
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**Folkestone, Viscount :** William Bouverie, 1761-1765; Earl of Radnor,  
1765.  
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**Forbes, Lord :** James Ochoncar Forbes, 1804-1843.  
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- Forester, Lord :** John George Weld Forester, 1828-1874.  
delxiv. delxvi. delxviii. delxx. delxxi. delxxii. delxxv. delxxvi. dcci.  
decli. decli. deccxliv. decccxiv.
- Fortescue, Lord :** Matthew Fortescue, 1751-1785.  
ccxli. ccxlii. ccxlv. ccxlviii. ccxlix. cecl. cccli. ccclxxviii.  
ccclxxix. ccclxxxiii. ccclxxxv. ccclxxxvii.
- Fortescue, Earl :** Hugh Fortescue, 1789-1841.  
diii. dlii.
- Fortescue, Earl :** Hugh Fortescue, 1841-1861.  
declxix. declxxxiii.
- Frescheville of Staveley, Lord :** John Frescheville, 1664-1682.  
li.
- Gage, Lord :** Henry Hall Gage, 1808. (Viscount Gage.)  
dlxv. dlxvi. dlxxx. dlxxxvii. dciii. dciv. delxv. delxxi. delxxiii.  
delxxv. delxxvi. delxxxiv. dexc. dexcix. deccxvi. deccxvii. deccxlv.
- Gainsborough, Earl of :** Baptist Noel, 1714-1751.,  
celxxvii. celxxxvii. ccvii.
- Gainsborough, Earl of :** Charles George Noel, 1866.  
decccx. decccxvii.
- Gerard, Lord :** Charles Gerard, 1645-1679; Earl of Macclesfield, 1679-  
1693.  
xxii. xxx.
- Glasgow, Earl of :** David Boyle, 1703-1733.  
clxi.
- Glenelg, Lord :** Charles Grant, 1835-1866.  
deccclxix. deccclxxi.
- Glengall, Earl of :** Richard Butler, 1819-1858.  
delxxi. delxxiii. deci. deccxiv. deccxvi. deccviii. decclix. deccxlii.  
deccxvi. deccli. decclii.
- Gloucester, Duke of :** William Frederic, 1805-1834.  
ccccxc. ccccxlii. ccccxiv. dxxi. dxxii. dxxiv. dxxv. dxxvi. dxxvii.  
dxi. dxlv. dxlvii. dxlix. dl. dliv. dlxxxiv. deliii. delxiv. delxxxii.
- Gloucester, Bishop of :** Godfrey Goodman, 1640-1656.  
v.
- Gloucester, Bishop of :** Edward Fowler, 1691-1714.  
cxiv.
- Gloucester, Bishop of :** William Warburton, 1760-1779.  
ccclxiii. ccclxiv.
- Gloucester and Bristol, Bishop of :** James Henry Monk, 1830-1862.  
delxiv. deccviii. decclix. deccxvi. deccxxx.
- Gloucester and Bristol, Bishop of :** Charles John Ellicott, 1863.  
decccxiv.
- Godolphin, Lord :** Sidney Godolphin, 1684-1706; Earl of Godolphin,  
1706-1712.  
cxiv. cxiv. cxv. cxxx. cxxxi. cxxxv. cxxxvi.

**Godolphin, Earl of :** Sidney Godolphin, 1706-1712.

clxi. clxix. clxx. clxxi. clxxii. clxxiii. clxxvi. clxxvii.

**Godolphin, Lord :** Francis Godolphin Osborne, summoned *vita patris*, 1832-1850.

dec.

**Gordon, Lord :** George Gordon, summoned *vita patris*, 1807-1827;  
Earl of Norwich, 1827-1836. (Duke of Gordon.)

dlxxxv.

**Gordon, Viscount :** George Gordon, 1814-1860. (Earl of Aberdeen.)

delxii. delxxvii. delxxxi. delxxxii. delxxxiv. deccxl. deccclvii.

**Gosford, Earl of :** Archibald Acheson, 1835-1849.

deccxlii. decciv.

**Gough, Viscount :** George Stephens Gough, 1869.

decccxiv.

**Gower, Lord :** John Leveson Gower, 1703-1709.

cxlvi.

**Gower, Lord :** John Leveson Gower, 1709-1746; Earl Gower, 1746-1754.

clxxxiv. clxxxv. clxxxix. cxc. cxci. cxevi. cxevii. cxeviii. ccii. cciii.  
cciv. ccv. ccvii. ccviii. ccix. ccx. ccxi. ccxii. ccxxv. ccxxvii. ccxxviii.  
ccxxix. ccxxx. ccxxxi. ccxxxii. ccxxxiii. ccxxxv. ccxxxvi. ccxxxviii.  
ccxxxix. ccxl. cxli. cxlii. cxliii. cxlv. cxlvii. cxlviii. ccli. cclii.  
cclii. ccvii. ccix. ccxi. ccxii. ccxiii. ccxiv. ccxv. ccxvi. ccxviii.  
ccxix. ccxx. ccxxii. ccxxiii. ccxxiv. ccxxvi. ccxxvii. ccxxviii.  
ccxxx. ccxxxii. ccxxxiii. ccxxxiv. ccxxxv. ccxxxvi. ccxxxvii.  
ccxxxviii. ccxxxix. ccxc. ccxcii. ccxciii. ccxciv. ccxcv.  
ccxcvi. ccxcvii. ccxcviii. ccxcix. ccc. ccci. cccli. ccclii. cccliv. ccclv.  
ccclviii. ccclix. cccx. cccxi. cccxii. cccxiii. cccxiv. cccxv. cccxvi.  
cccxvii. cccxviii. cccxix. cccxx. cccxxi. cccxxiv. cccxxv. cccxxviii.  
cccxix.

**Gower, Earl :** Granville Gower, 1754-1786; Marquis of Stafford, 1786-1803.

cccxliii. ccxcliv. ccxclvi.

**Grafton, Duke of :** Charles Fitzroy, 1690-1757.

clxxix. clxxx.

**Grafton, Duke of :** Augustus Henry Fitzroy, 1757-1811.

cccxlii. cccclxxviii. cccclxxxix. cccclxxxv. cccclxxxiii. cccclxxxix.

**Grafton, Duke of :** George Henry Fitzroy, 1811-1844.

dlxxxiv. dlxxxvi.

**Graham, Earl :** William Graham, 1731-1790. (Duke of Montrose, 1741-1790.)

ccxcvi. ccxcvii. ccxcix. ccc. ccci. cccvii. cccxxiv.

**Graham, Earl :** James Graham, 1790-1836. (Duke of Montrose.)

dxviii.

- Graham, Earl:** James Graham, 1836. (Duke of Montrose.)  
 dcccxvi. dcccxciv.
- Granard, Lord:** George Forbes, 1806-1837. (Earl of Granard.)  
 dxxiv. dxxv. dxxvi.
- Granard, Lord:** George Arthur Hastings Forbes, 1837. (Earl of Granard.)  
 dcccxi.
- Grantham, Lord:** Thomas Robinson, 1761-1770.  
 cccxlii.
- Grantham, Lord:** Thomas Philip Weddell Robinson, 1786-1833; Earl de Grey, 1833-1859.  
 dlxxxvii. delxxv.
- Grantley, Lord:** William Norton, 1789-1822.  
 dxxiv. dxxv. dxxvi.
- Grantley, Lord:** Fletcher Norton, 1822.  
 delxv. delxvi. delxxiv. delxxv. dcccxcv. dcccxcvi.
- Granville, Lord:** Charles Granville, summoned *vita patria*, 1689-1701.  
 lxxiii. lxxv. lxxxi. lxxxii. lxxxiii. lxxxviii. xci. cv. cix. cx. cxi.  
 cxix. cxxii. cxxiii. cxxiv. cxxv. cxxvi. cxxvii. cxxviii. cxxix. cxxx.
- Granville, Lord:** John Granville, 1702-1707.  
 cxlvi. cxlviii. clii. cliii. cliv. clv. clx.
- Granville, Viscount:** Granville Leveson Gower, 1815-1833; Earl Granville, 1833-1846.  
 deliii.
- Granville, Earl:** Granville George Leveson Gower, 1846.  
 decclxix.
- Gray, Lord:** Francis Gray, 1807-1842.  
 dlxxxv.
- Greenwich, Earl of:** John Campbell, 1705-1719; Duke of Greenwich, 1719-1743. (Duke of Argyll.)  
 clxi. clxiii. clxiv. clxxviii. clxxix. clxxx. clxxxix. cxc. cxci. cxci.
- Greenwich, Duke of:** John Campbell, 1719-1743. (Duke of Argyll.)  
 cclvi. cclvii. ccvii. ccxcix. ccxc. ccxci. ccxcii. ccxciii. ccxciv. ccxcv.  
 ccxcvi. ccxcvii. ccxcviii. ccxcix. cccxx. cccxxi. cccxxiv. cccxxv.
- Grenville, Lord:** William Wyndham Grenville, 1790-1834.  
 cccclxix. cccxcii. cccxciii. cccxciv. cccxcvii. cccxcviii. d. di. diii.  
 dxiv. dxxxvi. dxlii. dxlv. dxlvii. dxlviii. dxlix. dl. dli.
- Grey, Earl:** Charles Grey, 1807-1845.  
 cccxc. cccxcii. cccxciii. cccxciv. cccxcvi. cccxcvii. cccxcviii.  
 cccxcix. d. dxx. dxxi. dxxii. dxxx. dxxxi. dxxxii. dxxxvi. dxlii.  
 dxlv. dxlvii. dxlix. dlv. dlvi. dlviii. dlxv. dlxvi. dlxviii. dlxx. dlxxi.  
 dlxxxiv. dxcii. dxxiii.
- Grey, Earl:** Henry George Grey, 1845.  
 decclxviii. decclxx.

**Grey of Rolleston, Lord :** Charles North, 1673-1690; Lord North, 1677.

xxxix. xli. xlv. xlvii. lxiii. lxiv. lxxvi.

**Grey de Warke, Lord :** William Grey, 1624-1674.

iv. vi. vii. ix. x. xi. xii. xiii. xiv. xvii.

**Grey of Werke, Lord :** Forde Grey, 1675-1695; Earl of Tankerville, 1695-1701.

lvii. lviii. lxiv. lxix.

**Grey of Werke, Lord :** Ralph Grey, 1701-1706.

cxlvii.

**Griffin, Lord :** Edward Griffin, 1715-1742.

ccclxxxix. ccxc. ccxciii.

**Grinstead, Lord :** William Willoughby Cole, 1840. (Earl of Enniskillen.)

deceli. decelii. decelvi. decclxiv. deccxcviii. docccevi. decccxiv. decccxviii.

**Grosvenor, Lord :** Richard Grosvenor, 1761-1784; Earl Grosvenor, 1784-1802.

ccclxlii. ccclxiv. ccclxix. ccl. cclli. cclxi.

**Grosvenor, Earl :** Robert Grosvenor, 1802-1831; Marquis of Westminster, 1831-1845.

cccclxxxvii. dxv. dxvi. dxxx. dlviii. dlx. dlxii. dlxxii. dlxxiii. dlxxvii. dlxxxiii. dexi. dexiii.

**Guilford, Lord :** Francis North, 1685-1729.

xcix. cxiv. cxliii. cxlv. cxlvi. cxlvii. cxlviii. cxlix. cxxx. cxxxi. cxxxii. cxxxv. cxxxvi. cxxxix. cxl. cxlvi. cxlviii. clii. cliv. clv. clvi. clvii. clviii. clix. clx. clxii. clxiii. clxiv. clxv. clxvi. clxvii. clxviii. clxxxiv. clxxxvii. clxxxviii. clxxxix. cxc. cxci. cxciiv. cxcvii. cxcviii. cxci. cc. cci. ccii. cciii. cciv. ccv. ccvi. ccvii. ccx. ccxi. ccxii. ccxiii. ccxiv. ccxv. ccxvi. ccxvii. ccxviii. ccxix. ccxx. ccxxiii. ccxxiv. ccxxv. ccxxvi. ccxxix. ccxxx. ccxxxi. ccxxxii. ccxxxiv. ccxxxv. ccxxxvi. ccxxxvii. ccxxxviii. ccxxxix. cexl. cexlii. cexliii. cexlv.

**Guilford, Earl of :** George Augustus North, 1792-1802.

cccxxvi. ccccxxvii.

**Guilford, Earl of :** Francis North, 1827-1861.

dexxxviii. delxiv. delxvi. delxxiv. delxxv.

**Halifax, Viscount :** George Savile, 1668-1679; Earl of Halifax, 1679-1682; Marquis of Halifax, 1682-1695.

xxxiv. xxxviii. xxxix. xli. xlvii.

**Halifax, Marquis of :** George Savile, 1682-1695.

lxxvi. xc. xci. xcvi.

**Halifax, Marquis of :** William Savile, 1695-1700.

cix. cx. cxii. cxiv. cxviii.

**Halifax, Lord :** Charles Montagu, 1700-1714; Earl of Halifax, 1714-1715.

cxlvii. clxix. clxx. clxxii. clxxiii. clxxvi. clxxix. clxxx.

- Halifax, Earl of :** George Montagu, 1715-1739.  
cclvi. cclvii.
- Halifax, Earl of :** George Montagu, afterwards Dunk, 1739-1772.  
cccx. ccxc. cccxi. cccxii. cccxiii. cccxiv. cccxvii. cccxix. ccxxx. ccxxxi.  
ccxxiv. ccxxv. ccxxvii. ccxxix. ccxliii.
- Hamilton, Duke of :** James Douglas, 1694-1712.  
clxiii. clxiv. clxvi.
- Hamilton and Brandon, Duke of :** Alexander Hamilton, 1819-1852.  
dlxxxi. dclxix.
- Hampden, Viscount :** Thomas Trevor Hampden, 1783-1824.  
ccciv.
- Harborough, Earl of :** Bennet Sherard, 1719-1732.  
cclvi. cclvii.
- Harcourt, Lord :** Simon Harcourt, 1711-1727.  
clxxv. clxxxvii. clxxxix. cxc. cxci. cxevi.
- Harcourt, Earl :** George Simon Harcourt, 1777-1809.  
ccclxxvi. ccclxxviii. ccclxxix. ccclxxxii. ccclxxxv. ccclxxxvi. ccclxxxviii.  
cccii.
- Hardwicke, Earl of :** Philip Yorke, 1790-1834.  
cccclxxxi. dxviii.
- Hardwicke, Earl of :** Charles Philip Yorke, 1834-1873.  
dcccxi.
- Harewood, Lord :** Edward Lascelles, 1796-1812; Earl of Harewood,  
1812-1820.  
dxxviii.
- Hartismere, Lord :** John Major, 1866-1870. (Lord Henniker.)  
dcccxiv.
- Harrington, Earl of :** Leicester Fitzgerald Charles Stanhope, 1851-  
1862.  
dcccxxviii. dcccxc. dcccxcviii.
- Harris, Lord :** George Harris, 1815-1829.  
dlxxv. dxc.
- Harrowby, Earl of :** Dudley Ryder, 1809-1847.  
dxxviii. dclx.
- Harrowby, Earl of :** Dudley Ryder, 1847.  
dcccix. dcccxiv.
- Hastings, Lord :** Jacob Astley, 1841-1859.  
dccciv. dcccvi.
- Hatherton, Lord :** Edward John Littleton, 1835-1863.  
dcccix. dccciii. dccciii.
- Hatton, Lord :** Christopher Hatton, 1643-1670.  
xiv. xv.
- Hatton, Viscount :** William Hatton, 1706-1760.  
clxxiv.

**Haversham, Lord:** John Thompson, 1696-1710.

cxiii. cxv. cxvi. cxix. cxx. cxxi. cxlvi. cli. clii. cliii. cliv.

**Haversham, Lord:** Maurice Thompson, 1710-1745.

clxvi. clxvii. clxviii. clxix. clxx. clxxii. clxxiii. clxxvi. clxxvii.  
clxxix. clxxx. cclxvii. cccxii. cccxix. ccc. cccii. ccciii. ccciv.  
cccvii. cccix. cccx. cccxi. cccxii. cccxiii. cccxiv. cccxv. cccxvi.  
cccxvii. cccxix. cccxx. cccxxi. cccxxiii. cccxxiv. cccxxv. cccxxvi.  
cccxvii. cccxxviii.

**Hawarden, Viscount:** Cornwallis Maude, 1807-1856.

decxliv. decxlv. decxlvii. decliii. deccelxv. deccelxviii.

**Hawarden, Viscount:** Cornwallis Maude, 1856.

decccxiv. decccxxi. decccxiii.

**Hawke, Lord:** Martin Bladen Hawke, 1781-1805.

ccccv. ccccvii.

**Hawkesbury, Lord:** Robert Banks Jenkinson, summoned *vita patris*,  
1803-1808; Earl of Liverpool, 1808-1828.

cccclxxxi.

**Hay, Lord:** George Henry Hay, 1711-1758. (Earl of Kinnoull, 1719.)

clxxxv. clxxxviii. cxcv. cxcviii. ccxxv. ccxxvi. ccxxix. ccxxx. ccxxxi.  
ccxxxii. ccxxxiii. ccxxxiv. ccxxxv. ccxxvi. ccxxxvii. ccxxxviii.  
ccxxxix. cexl. cexli. cexlii. cexliii. celvi. celvii.

**Hay, Lord:** Robert Hay Drummond, 1787-1804. (Earl of Kinnoull.)

cccciii. cccxiv. cccv. cccix. cccxvi. cccclv.

**Hay, Lord:** Thomas Robert Drummond Hay, 1804-1866. (Earl of Kinnoull.)

dexlvi. delxxv. delxxiv. dexc. dcccvi. deccclvi.

**Headfort, Marquis of:** Thomas Taylour, 1800-1842; Lord Kenlis, 1831.

dxxv. dxxvi.

**Herbert of Chirbury, Lord:** Henry Herbert, 1678-1691.

lv. lvii. lviii. lxix. lxx. lxxii. lxxiii. lxxv. lxxvii. lxxviii. lxxxi.  
lxxxii. lxxxiii.

**Herbert of Chirbury, Lord:** Henry Herbert, 1694-1709.

c. cxx. cxlii. cxlvii. clxi.

**Herbert of Chirbury, Lord:** Henry Herbert, 1709-1738.

clxix. clxx. clxxi. clxxii. clxxiii. clxxvi.

**Hereford, Viscount:** Edward Devereux, 1683-1700.

cix.

**Hereford, Viscount:** Price Devereux, 1700-1740.

cxiii. cxiv. cxvii. ccxxvi. ccxxvii. ccxxix. ccxxx. ccxxxi. ccxxxii.  
cexlii. cexliii. celxxi. celxxii. celxxiii. celxxiv.

**Hereford, Viscount:** Price Devereux, 1740-1748.

cccxiii. cccxiv. cccv. cccvi. cccvii. cccviii. cccix. cccxx. cccxxi.  
cccxiv. cccxxv. cccxxvi. cccxxviii. cccxxxi.

**Hereford, Viscount:** Edward Devereux, 1760-1783.  
ccclxxvi. ccclxxxii.

**Hereford, Viscount:** George Devereux, 1783-1804.  
ccccciv. ccccv.

**Hereford, Viscount:** Henry Devereux, 1804-1843.  
dxxiv. dxxv. dxxvi.

**Hereford, Bishop of:** George Cook, 1636-1646.  
v.

**Hereford, Bishop of:** Herbert Croft, 1662-1691.  
xxx.

**Hereford, Bishop of:** Gilbert Ironside, 1691-1701.  
cix.

**Hereford, Bishop of:** Philip Bisse, 1713-1721.  
clxxxiv. clxxxvii. clxxxix. cxc. cxci. cxcii. cxciii.

**Hereford, Bishop of:** John Luxmore, 1808-1815.  
dxxviii.

**Hertford, Marquis of:** William Seymour, 1640-1660; Duke of Somerset,  
1660.  
ii.

**Hertford, Earl of:** Francis Seymour Conway, 1750-1793; Marquis of  
Hertford, 1793-1794.  
ccccciv. ccccv.

**Hertford, Marquis of:** Francis Charles Seymour Conway, 1822-1842.  
dccc.

**Hertford, Marquis of:** Francis George Hugh Seymour, 1870.  
dccccxxvii.

**Hervey, Lord:** John Hervey, 1703-1714; Earl of Bristol, 1714-1751.  
clxix. clxx. clxxi. clxxii. clxxiii. clxxvii.

**Hervey, Lord:** John Hervey, summoned *vita patris*, 1733-1743.  
ccccxix. cccxxx.

**Hillsborough, Earl of:** Arthur Blundell Sandys Trumbull Hill, 1801-  
1845. (Marquis of Downshire.)  
dxx. dxxi. dxxii. dlxxx. dlxxxiii. dlxxxvi. dxi. dxxii.

**Holland, Lord:** Henry Richard Fox, 1774-1840; afterwards Fox  
Vassall.

ccccxli. ccccxlii. ccccxliv. ccccxlviii. ccccl. ccccli. ccccliii. cccclviii.  
ccclx. ccclxii. ccclxiv. ccclxv. ccclxvi. ccclxviii. ccclxxvii.  
ccclxxviii. ccclxxx. ccclxxx. ccclxxxiv. ccclxxxv. ccclxxxvii.  
ccclxxxviii. cccxc. cccxc. cccxciii. cccxciv. cccxcv. cccxcvi.  
cccxvii. ccccxviii. cccxcix. d. diii. dviii. dix. dxi. dxx. dxxi.  
dxxii. dxxiv. dxxv. dxxvi. dxxvii. dxxix. dxxxi. dxxxii. dxxxiv.  
dxxxvi. dxl. dxlii. dxliii. dxlv. dxlvii. dli. dlii. dliii. dliiv. dlvi.  
dlix. dlx. dlxi. dlxii. dlxv. dlxvi. dlxvii. dlxviii. dlxx. dlxxi. dlxxii.  
dlxxiii. dlxxv. dlxxvii. dlxxx. dxcii. dcii. dciii. dev. devii. dcix.



dexiii. dexv. dcxxv. dextxxvi. deliii. deliv. delvii. delviii. delix.  
dexciii. decii. deccviii. decxv. decxix. decxxiv. decxxv. decxxx.  
decxxxi. decxxxii. decxxv. decxlii.

**Holland, Lord:** Henry Edward Fox, 1840-1859.  
dcccxxxiii.

**Holland, Earl of:** Henry Rich, 1624-1649.  
iv. vi. vii.

**Holles, Lord:** Denzil Holles, 1661-1680.  
xxxvi. xxxix. xli.

**Home, Earl:** Alexander Home, 1706-1720.  
clxxv. clxxviii.

**Home, Earl of:** Alexander Rowney Home, 1786-1841.  
dxxviii. dclxiv.

**Hood of Catherington, Lord:** Henry Hood, 1806-1816; Viscount  
Hood, 1816-1836.  
dxli.

**Houghton, Lord:** William Holles, 1616-1624; Earl of Clare, 1624-1637.  
i.

**Houghton, Lord:** Richard Monckton Milnes, 1863.  
decececi. deccccxvii.

**Howard of Charlton, Lord:** Charles Howard, summoned *vita patris*,  
1640-1669; Earl of Berkshire, 1669-1679.  
xxvii. xxx.

**Howard of Escrick, Lord:** Edward Howard, 1628-1675.  
ii. iv. vi. vii. x. xi. xiv. xx.

**Howard of Escrick, Lord:** William Howard, 1678-1695.  
lvii.

**Howard of Escrick, Lord:** Charles Howard, 1694-1714.  
cxiv. cxx. cxxii. cxxiii. cxxiv. cxxvii. cxxviii. cxxix. cxxx. cxxxi.  
cxxxv. cxxxvi. cli. cliv. clv. clvi. clxv. clxvi. clxvii. clxviii.

**Howden, Lord:** John Hobart Caradoc, 1839-1874.  
dcclvi.

**Howe, Earl:** Richard William Penn Assheton Curzon Howe, 1821-  
1870.  
dcxxiv. dclxiv.

**Hunsdon, Lord:** John Carey, summoned *vita patris*, 1640-1668; Earl  
of Dover, 1668-1677.  
vi. vii.

**Hunsdon, Lord:** Robert Carey, 1677-1692.  
xlix.

**Hunsdon, Lord:** Robert Carey, 1692-1702.  
cix. cxxvi. cxxix. cxxx. cxxxv. cxxxvi.

**Hunsdon, Lord:** William Ferdinand Carey, 1702-1765.  
clxxv.

**Hunsdon, Lord :** Lucius Bentinck Carey, 1834. (Viscount Falkland.)

dcxxxx. dccxxxi. dccxlii.

**Huntingdon, Earl of :** Theophilus Hastings, 1655-1701.

xlvi. liii. lvii. lviii. lxxix. lxxxii. xc. cix.

**Huntingdon, Earl of :** George Hastings, 1701-1705.

cxlii.

**Huntingdon, Earl of :** Theophilus Hastings, 1705-1746.

celxx. celxxiii. celxxiv. celxxvi. cexcix. ccc. ccc. cccii. ccciii. cccvii. cccxxviii. cccxxix.

**Huntingdon, Earl of :** Francis Hastings, 1746-1789.

ccclix. cccl. cccli. ccclii. ccciv. cccv.

**Huntingdon, Earl of :** Hans Francis Hastings, 1819-1828.

dlxxv.

**Hutchinson, Lord :** John Hely Hutchinson, 1801-1832.

cccxciii. cccxciv. diii. dxxiv. dxxv. dxxvi.

**Hutchinson, Viscount :** Richard John Hely Hutchinson, 1851-1866.

(Earl of Donoughmore.)

decelxiii. deccclxxviii. deccclxxix. deccci.

**Hyde, Lord :** Edward Hyde, 1660-1661 ; Earl of Clarendon, 1661.

xiv.

**Hyde, Lord :** Thomas Villiers, 1756-1776 ; Earl of Clarendon, 1776-

1786.

cccxlili. ccclxiv. ccclix. cccl.

**Hay, Earl of :** Archibald Campbell, 1706-1743 ; Duke of Argyll, 1743-

1761.

clxi. clxiii. clxiv. clxxv. clxxviii. clxxxix. cxc. xcxi. xciv.

**Hochester, Earl of :** Henry Stephen Fox Strangways, 1802-1858.

dlxvi. dlxxxvii.

**Jeffreys, Lord :** John Jeffreys, 1689-1703.

cv. cix. cx. cxiv. cxv. cxviii. cxxi. cxxiii. cxxiv. cxxvi. cxxvii. cxxviii. cxxix. cxxx. cxxxv. cxxxvi. cxxxix. cxl.

**Jermyn, Lord :** Thomas Jermyn, 1683-1703.

lxxix. lxxx. lxxxvi. cxi. cxxxv. cxxxvi.

**Jersey, Earl of :** Edward Villiers, 1697-1711.

cxvii. cli. clxv. clxvi. clxvii. clxviii.

**Jersey, Earl of :** William Villiers, 1711-1721.

clxxxi.

**Jersey, Earl of :** George Bussy Villiers, 1769-1805.

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**Jersey, Earl of :** George Child Villiers, 1805-1859.

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- Kilmore**, Bishop of: George de la Poer Beresford, 1802-1841.  
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- Kilmore**, Bishop of: Hamilton Verschoyle, 1862-1870.  
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- Kilayth**, Viscount: William Livingston, 1706-1715.  
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- Kimbolton**, Lord: Edward Montagu, 1626-1642; summoned *vita patris*; Earl of Manchester, 1642-1671.  
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- King**, Lord: Thomas King, 1767-1779.  
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- King**, Lord: Peter King, 1779-1793.  
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- King**, Lord: Peter King, 1793-1833.  
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- Kingston**, Earl of: William Pierrepont, 1682-1690.  
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- Kingston**, Earl of: Evelyn Pierrepont, 1690-1706; Marquis of Dorchester, 1706-1715; Duke of Kingston, 1715-1726.  
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- Kingston**, Earl of: George King, 1799-1839.  
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- Kingston**, Lord: Robert Henry King, 1839-1867. (Earl of Kingston.)  
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- Kinnoull**, Earl of: Thomas Hay, 1709-1719.  
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- Kinnaird**, Lord: George Kinnaird, 1787-1805.  
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- Kinnaird and Rossie**, Lord: George William Fox Kinnaird, 1826.  
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- Lake**, Viscount: Warwick Lake, 1836-1848.  
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- Langdale**, Lord: Henry Bickersteth, 1836-1851.  
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- Lansdown**, Lord: George Granville, 1711-1735.  
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- Lansdowne**, Marquis of: William Petty, 1784-1805.  
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**Lansdowne, Marquis of :** Henry Fitzmaurice Petty, 1809-1863.

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**Lauderdale, Earl of :** James Maitland, 1789-1839 ; Lord Lauderdale, 1806.

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**Lauderdale, Earl of :** Thomas Maitland, 1863.

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**Leeds, Duke of :** Thomas Osborne, 1694-1712.

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**Leeds, Duke of :** Francis Godolphin Osborne, 1789-1799.

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**Leeds, Duke of :** Francis Godolphin D'Arcy Osborne, 1838-1859.

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**Leicester, Earl of :** Robert Sydney, 1626-1677.

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**Leicester, Earl of :** John Sydney, 1705-1737.

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**Leicester, Earl of :** George Townshend, 1784-1807 ; Marquis Townshend, 1807-1811.

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**Leigh, Lord :** Thomas Leigh, 1672-1710.

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**Leigh, Lord :** Edward Leigh, 1710-1738.

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**Leigh, Lord :** Thomas Leigh, 1738-1749.

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**Leigh, Lord :** Edward Leigh, 1749-1786.

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**Leinster, Viscount :** William Robert Fitzgerald, 1773-1804. (Duke of Leinster.)

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**Leinster, Viscount :** Augustus Frederic Fitzgerald, 1804-1874. (Duke of Leinster.)

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**Lempster, Lord :** William Fermor, 1692-1711.

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**Leven, Earl of :** David Melville, 1707-1729.

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**Leven and Melville, Earl of :** John Thornton Leslie Melville, 1860.

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**Lexington, Lord :** Robert Sutton, 1645-1668.

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**Lexington, Lord :** Robert Sutton, 1668-1723.

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**Lichfield, Earl of :** George Henry Lee, 1716-1743.

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**Lichfield, Earl of :** George Henry Lee, 1743-1772.

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**Lichfield, Earl of :** Thomas William Anson, 1831-1854.

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**Lichfield and Coventry, Bishop of :** Thomas Morton, 1619-1632.

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**Lichfield and Coventry, Bishop of :** Robert Wright, 1632-1642.

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**Lichfield and Coventry, Bishop of :** John Hough, 1699-1714.

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**Lichfield and Coventry, Bishop of :** Richard Smallbrooke, 1730-1749.

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**Lichfield and Coventry, Bishop of :** Frederic Cornwallis, 1749-1768.

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- Lichfield and Coventry**, Bishop of: James Lonsdale, 1843-1867.  
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- Lichfield and Coventry**, Bishop of: George Augustus Selwyn, 1867.  
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- Lilford**, Lord: Thomas Atherton Powys, 1825-1861.  
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- Limerick**, Earl of: Edward Henry Pery, 1794-1844.  
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- Lincoln**, Earl of: Theophilus Clinton, 1619-1667.  
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- Lincoln**, Earl of: Francis Fiennes Clinton, 1692-1693.  
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- Lincoln**, Earl of: Henry Fiennes Clinton, 1693-1728.  
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- Lincoln**, Bishop of: Thomas Tenison, 1691-1694.  
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- Lincoln**, Bishop of: James Gardner, 1694-1705.  
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- Lincoln**, Bishop of: William Wake, 1705-1716.  
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- Lincoln**, Bishop of: Richard Reynolds, 1723-1743.  
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- Lindsey**, Earl of: Robert Bertie, 1666-1701.  
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- Lindsey**, Earl of: Robert Bertie, 1701-1706; Marquis of Lindsey, 1706-1715; Duke of Ancaster, 1715.  
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- Linlithgow**, Earl of: James Livingstone, 1695-1715.  
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- Lisle**, Viscount: Robert Sydney, summoned *vita patris*, 1689-1698.  
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- Lismore**, Lord: Cornelius O'Callaghan, 1838-1857. (Viscount Lismore, 1797.)  
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- Liverpool**, Earl of: Robert Banks Jenkinson, 1808-1828.  
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- Llandaff**, Bishop of: Morgan Owen, 1639-1645.  
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- Llandaff**, Bishop of: William Beaw, 1679-1707.  
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- Llandaff**, Bishop of: John Tyler, 1707-1724.  
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- Llandaff**, Bishop of: Richard Watson, 1782-1816.  
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- Llandaff**, Bishop of: Edward Copleston, 1827-1849.  
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- Loftus**, Lord: John Loftus, 1806-1845. (Marquis of Ely.)  
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- Loftus**, Lord: John Henry Loftus, 1845-1857. (Marquis of Ely.)  
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- London**, Bishop of: Henry Compton, 1675-1713.  
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- London**, Bishop of: John Robinson, 1713-1723.  
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- Loudoun**, Earl of: Hugh Campbell, 1684-1731.  
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- Longford**, Earl of: Thomas Pakenham, 1792-1835.  
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- Lonsdale**, Viscount: John Lowther, 1696-1700.  
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- Lonsdale**, Viscount: Richard Lowther, 1700-1713.  
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- Lonsdale**, Earl of: William Lowther, 1802-1844.  
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- Lorton**, Viscount: Robert Edward King, 1806-1854.  
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- Lothian**, Marquis of: William Kerr, 1703-1722.  
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- Lothian**, Marquis of: William John Kerr, 1775-1815.  
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- Lothian**, Marquis of: William Kerr, 1815-1824.  
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- Loughborough**, Lord: Alexander Wedderburn, 1780-1801; Earl of  
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- Lovat**, Lord: Thomas Alexander Fraser, 1837.  
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- Lovelace**, Lord: John Lovelace, 1634-1670.  
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- Lovelace**, Lord: John Lovelace, 1670-1693.  
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- Lovelace**, Lord: John Lovelace, 1693-1709.  
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- Lovelace**, Earl of: William King Noel, 1833.  
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- Lovel and Holland, Lord :** John James Perceval, 1770-1822. (Earl of Egmont.)  
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- Lovel and Holland, Lord :** George James Perceval, 1841-1874. (Earl of Egmont.)  
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- Lucan, Earl of :** Richard Bingham, 1790-1839.  
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- Lucan, Earl of :** George Charles Bingham, 1839.  
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- Lucas, Lord :** John Lucas, 1644-1670.  
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- Lucas, Lord :** Thomas Lucas, 1688-1705.  
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- Lumley, Lord :** Richard Lumley, summoned *vita patris*, 1715-1721.  
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- Lurgan, Lord :** Charles Brownlow, 1839-1847.  
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- Lyndhurst, Lord :** John Copley, 1827-1863.  
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- Lynedoch, Lord :** Thomas Graham, 1811-1843.  
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- Lyttelton, Lord :** George Lyttelton, 1757-1773.  
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- Lyttelton, Lord :** George William Lyttelton, 1837.  
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- Macclesfield, Earl of :** Charles Gerard, 1679-1694.  
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- Macclesfield, Earl of :** Charles Gerard, 1694-1701.  
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- Macclesfield, Earl of :** George Parker, 1732-1764.  
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- Macclesfield, Earl of :** George Parker, 1795-1842.  
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- Malmesbury, Lord :** James Harris, 1788-1850; Earl of Malmesbury, 1800-1820.  
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- Malmesbury, Earl of :** James Edward Harris, 1820-1841.  
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- Malmesbury, Earl of :** James Howard Harris, 1841.  
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**Manchester, Earl of:** Edward Montagu, 1642-1671.  
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**Manchester, Earl of:** Robert Montagu, 1671-1682.  
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**Manchester, Earl of:** Charles Montagu, 1682-1719; Duke of Manchester, 1719-1722.  
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**Manchester, Duke of:** William Montagu, 1722-1739.  
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**Manchester, Duke of:** George Montagu, 1762-1788.  
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**Manchester, Duke of:** George Montagu, 1843-1855.  
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**Manchester, Duke of:** William Drogo Montagu, 1855.  
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**Mandeville, Viscount:** Henry Montagu, 1620; Earl of Manchester, 1626-1642.  
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**Manners, Lord:** Thomas Manners Sutton, 1807-1842.  
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**Mansel, Lord:** Thomas Mansel, 1711-1723.  
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**Mansel, Lord:** Thomas Mansel, 1723-1743.  
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**Mansfield, Earl of:** William Murray, 1796-1840.  
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**Mansfield, Earl of:** William David Murray, 1840.  
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**Manvers, Earl:** Charles Herbert Pierrepont, 1816-1860.  
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**Mar, Earl of:** John Erskine, 1789-1815.  
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**Marchmont, Earl of:** Alexander Home, 1724-1740.  
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**Marlborough, Earl of:** John Churchill, 1689-1702; Duke of Marlborough, 1702-1722  
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- Marlborough, Duke of :** John Churchill, 1702-1722.  
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- Marlborough, Duke of :** Charles Spencer Churchill, 1733-1758.  
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- Marlborough, Duke of :** Charles Spencer Churchill, 1758-1817.  
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- Marlborough, Duke of :** George Spencer Churchill, 1840-1857.  
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- Marlborough, Duke of :** John Winston Spencer Churchill, 1857.  
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- Maryborough, Lord :** William Wellesley Pole, 1821-1845. (Earl of Mornington, 1842.)  
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- Masham, Lord :** Samuel Masham, 1711-1758.  
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- Maynard, Lord :** William Maynard, 1639-1698.  
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- Maynard, Lord :** Henry Maynard, 1718-1742.  
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- Maynard, Lord :** Charles Maynard, 1745-1766; Viscount Maynard, 1766-1775.  
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- Maynard, Viscount :** Charles Maynard, 1775-1824.  
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- Mayo, Earl of :** John Bourke, 1794-1849.  
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- Mayo, Earl of :** Robert Bourke, 1849-1867.  
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- Melbourne, Viscount :** William Lamb, 1828-1848.  
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- Meldrum, Lord :** George Gordon, 1794-1853. (Earl of Aboyne.)  
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- Melros, Lord :** Thomas Hamilton, 1827-1858. (Earl of Haddington.)  
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- Melville, Viscount :** Henry Dundas, 1851.  
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- Mendip, Lord :** Henry Welbore Ellis, 1802-1836. (Viscount Clifden.)  
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- Methuen, Lord :** Paul Methuen, 1816-1849.  
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- Middlesex, Earl of :** James Cranfield, 1645-1651.  
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- Middleton, Lord :** Thomas Willoughby, 1711-1729.  
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- Middleton, Lord :** Francis Willoughby, 1729-1758.  
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- Milton, Lord :** Joseph Damer, 1762-1792 ; Earl of Dorchester, 1792-1798.  
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- Minto, Lord :** Gilbert Elliot, 1797-1813 ; Earl of Minto, 1813-1814.  
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- Minto, Earl of :** Gilbert Elliot Murray Kynynmound, 1814-1859.  
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- Mohun, Lord :** Warwick Mohun, 1660?-1665.  
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- Mohun, Lord :** Charles Mohun, 1665-1682?  
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- Mohun, Lord :** Charles Mohun, 1682?-1712.  
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- Monmouth, Duke of :** James Fitzroy, 1663-1685.  
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- Monmouth, Earl of :** Charles Mordaunt, 1689-1735 ; Earl of Peterborough, 1697.  
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- Monson, Lord :** John Monson, 1748-1774.  
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- Monson, Lord :** Frederick John Monson, 1809-1841.  
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- Montagu of Boughton, Lord :** Edward Montagu, 1621-1644.  
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- Montagu, Lord :** Ralph Montagu, 1683-1689 ; Earl of Montagu, 1689-1705 ; Duke of Montagu, 1705-1709.  
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- Montagu, Earl of :** Ralph Montagu, 1689-1705 ; Duke of Montagu, 1705-1709.  
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- Montagu, Duke of :** John Montagu, 1709-1749.  
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- Montague, Viscount :** Francis Brown, 1629-1682.  
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**Montagu, Lord :** Henry James Montagu Scott, 1790-1845.  
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**Monteagle, Lord :** Howe Peter Browne, 1809-1845. (Marquis of Sligo.)  
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**Monteagle, Lord :** George John Browne, 1845. (Marquis of Sligo.)  
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**Monteagle of Brandon, Lord :** Thomas Spring Rice, 1839-1866.  
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**Montfort, Lord :** Henry Bromley, 1799-1851.  
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**Montjoy, Lord :** Thomas Windsor, 1711-1738. (Viscount Windsor.)  
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**Montrose, Duke of :** James Graham, 1707-1742.  
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**Moore, Lord :** Henry Francis Seymour Moore, 1837. (Marquis of Drogheda.)  
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**Mordaunt, Viscount :** John Mordaunt, 1659-1675.  
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**Mordaunt, Viscount :** Charles Mordaunt, 1675-1689; Earl of Monmouth, 1689-1735; Earl of Peterborough, 1697.  
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**Morley, Earl of :** John Parker, 1815-1840.  
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**Morley and Monteagle, Lord :** Thomas Parker, 1655-1689.  
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**Mostyn, Lord :** Edward Pryce Lloyd, 1831-1857.  
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- Mountcashell**, Earl of : Stephen Moore, 1822.  
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- Mount Edgecumbe**, Earl of : Richard Edgecumbe, 1795-1839.  
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- Mulgrave**, Earl of : Edmund Sheffield, 1626-1646.  
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- Mulgrave**, Earl of : Edmund Sheffield, 1646-1658.  
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- Mulgrave**, Earl of : John Sheffield, 1658-1694 ; Marquis of Normanby,  
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- Mulgrave**, Lord : Henry Phipps, 1798-1812 ; Earl of Mulgrave,  
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- Munster**, Earl of : William George Fitzclarence, 1842.  
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- Napier**, Lord : Francis Napier, 1775-1823.  
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- Nelson**, Earl : William Nelson, 1805-1835.  
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- Nelson**, Earl : Horatio Nelson, 1835.  
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- Newark**, Viscount : Charles Meadows Pierrepont, 1796-1806 ; Earl  
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- Newcastle**, Duke of : Henry Pelham Clinton, 1795-1851.  
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- Newcastle**, Duke of : Henry Pelham Clinton, 1851-1864.  
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- Newnham Paddox**, Lord : Basil Fielding, summoned *vita patris*, 1627-  
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- Newport**, Earl of : Montjoy Blount, 1628-1665.  
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- Newport**, Viscount : Francis Newport, 1675-1694 ; Earl of Bradford,  
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- Norfolk**, Duke of : Henry Howard, 1684-1701.  
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- Norfolk**, Duke of : Charles Howard, 1786-1815.  
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**Norfolk**, Duke of: Henry Granville Fitzalan Howard, 1856-1860.  
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**Norfolk**, Duke of: Henry Fitzalan Howard, 1860.  
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**Normanby**, Marquis of: John Sheffield, 1694-1703; Duke of Buck-  
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**Normanby**, Marquis of: Constantine Henry Phipps, 1838-1863.  
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**North and Grey**, Lord: William North, 1690-1734.  
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**Northampton**, Earl of: James Compton, 1642-1681.  
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**Northampton**, Earl of: George Compton, 1681-1727.  
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**Northampton**, Earl of: James Compton, 1727-1754.  
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**Northampton**, Marquis of: Charles Compton, 1812-1828.  
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**Northesk**, Earl of: David Carnegie, 1668-1729.  
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**Northington**, Earl of: Robert Henley, 1772-1786.  
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**Northumberland**, Earl of: Algernon Percy, 1632-1668.  
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**Northumberland**, Duke of: George Fitzroy, 1683-1716.  
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**Northumberland, Duke of: Hugh Percy, 1817-1847.**  
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**Northumberland, Duke of: Algernon George Percy, 1867.**  
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**Northwick, Lord: John Rushout, 1800-1859.**  
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**Norwich, Earl of: George Goring, 1644-1662.**  
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**Norwich, Earl of : Charles Goring, 1662-1671.**  
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**Norwich, Earl of:** George Gordon, 1827-1836. (Duke of Gordon.)  
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**Norwich, Bishop of: Joseph Hall, 1641-1656.**  
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**Norwich, Bishop of: John Moore, 1691-1707.**  
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**Norwich, Bishop of: Charles Trimnell, 1708-1721.**  
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**O'Neill, Earl:** Charles Henry St. John O'Neill, 1800-1841.  
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**O'Neill, Lord:** William O'Neill, 1868.  
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**Onslow, Lord :** Thomas Onslow, 1717-1740.  
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**Oranmore and Browne, Lord : Geoffrey Dominick Augustus Frederic Guthrie, 1860.**  
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**Orford, Earl of: Edward Russell, 1697-1727.**  
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**Orford, Earl of: Horatio Walpole, 1809-1822.**  
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**Orford, Earl of: Horatio Walpole, 1822-1858.**  
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- Oxford and Mortimer, Earl of:** Robert Harley, 1711-1724.  
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- Oriel, Lord:** Thomas Henry Foster Skeffington, 1828-1843. (Viscount Ferrard.)  
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- Orkney, Earl of:** George Hamilton, 1696-1737.  
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- Orkney, Earl of:** Thomas John Hamilton Fitzmaurice, 1831.  
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- Ormond, Duke of:** James Butler, 1688-1715.  
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- Ormonde, Lord:** John Butler, 1838-1854. (Marquis of Ormonde.)  
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- Osborne, Lord:** Peregrine Osborne, summoned *vita patris*, 1690-1712.  
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- Osborne, Lord:** Peregrine Hyde Osborne, summoned *vita patris*, 1712-1729.  
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- Osborne, Lord:** Francis Godolphin Osborne, summoned *vita patris*, 1776-1789.  
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- Ossory and Ferns, Bishop of:** James Thomas O'Brien, 1842.  
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- Ossulston, Lord:** Charles Bennet, 1688-1714; Earl of Tankerville, 1714-1722.  
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- Overstone, Lord:** Samuel Jones Loyd, 1850.  
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- Oxford, Earl of:** Henry de Vere, 1604-1626.  
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- Oxford, Earl of:** Aubrey de Vere, 1632-1702.  
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- Oxford, Bishop of:** Robert Skinner, 1641-1663.  
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- Oxford, Bishop of:** John Hough, 1690-1699.  
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- Oxford, Bishop of:** William Talbot, 1699-1715.  
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- Oxford, Bishop of:** Richard Bagot, 1829-1846.  
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- Oxford, Bishop of:** Samuel Wilberforce, 1846-1869.  
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**Oxford and Mortimer, Earl of: Edward Harley, 1755-1790.**

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**Oxford and Mortimer, Earl of: Edward Harley, 1790-1848.**

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**Paget, Lord: William Paget, 1629-1678.**

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**Paget, Lord: William Paget, 1678-1713.**

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**Paget, Lord: Henry Bayley Paget, 1769-1784; Earl of Uxbridge,  
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**Panmure, Lord: Fox Maule Ramsay, 1852; Earl of Dalhousie, 1860-  
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**Pelham, Lord: Thomas Pelham Holles, 1712-1714; Earl of Clare,  
1714; Duke of Newcastle, 1715-1768.**

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**Pelham, Lord: Thomas Pelham, 1768-1801; Earl of Chichester, 1801-  
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**Pembroke and Montgomery, Earl of: Philip Herbert, 1630-1650.**

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**Pembroke and Montgomery, Earl of: Philip Herbert, 1650-1669.**

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**Pembroke and Montgomery, Earl of: Thomas Herbert, 1683-1733.**

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**Pembroke and Montgomery, Earl of: Henry Herbert, 1751-1794.**

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**Penshurst, Lord: Percy Clinton Sydney Smith, 1801-1855. (Viscount  
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**Percy, Lord: Hugh Percy, 1777-1786; Duke of Northumberland,  
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- Peterborough, Earl of:** John Mordaunt, 1628-1642.  
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- Peterborough, Earl of:** Henry Mordaunt, 1642-1697.  
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- Peterborough, Bishop of:** Richard Cumberland, 1691-1718.  
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- Peterborough, Bishop of:** John Hinchcliffe, 1769-1794.  
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- Peterborough and Mordaunt, Earl of:** Charles Henry Mordaunt,  
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- Petre, Lord:** William Petre, 1638-1683.  
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- Petre, Lord:** William Bernard Petre, 1850.  
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- Plunket, Lord:** William Conyngham Plunket, 1827-1854.  
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- Plymouth, Earl of:** Other Windsor, 1687-1727.  
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- Plymouth, Earl of:** Other Windsor, 1727-1732.  
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- Plymouth, Earl of:** Other Lewis Windsor, 1732-1771.  
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- Plymouth, Earl of:** Other Hickman Windsor, 1771-1799.  
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- Plymouth, Earl of:** Other Archer Windsor, 1799-1833.  
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- Polwarth, Lord:** Henry Francis Hepburne Scott, 1841-1867.  
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- Pomfret, Earl of:** Thomas Fermor, 1721-1753.  
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- Pomfret, Earl of:** George Fermor, 1753-1785.  
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- Pomfret, Earl of:** George Fermor, 1785-1830.  
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- Pomfret, Earl of:** George William Richard Fermor, 1833-1867.  
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- Ponsonby, Lord:** William Ponsonby, 1758-1793. (Earl of Bessborough.)  
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- Ponsonby, Lord:** Frederic Ponsonby, 1793-1844. (Earl of Bessborough.)  
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**Porchester, Lord :** Henry Herbert, 1780-1793 ; Earl of Carnarvon,  
 1793-1811.

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**Portland, Earl of :** Jerome Weston, 1634-1662.

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**Portland, Earl of :** William Bentinck, 1689-1709.

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**Portland, Duke of :** William Henry Cavendish Bentinck, 1762-1809.

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**Poulett, Lord :** John Poulett, 1680-1706 ; Earl Poulett, 1706-1743.

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**Poulett, Earl :** John Poulett, 1819-1864.

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**Powis, Earl of :** Henry Arthur Herbert, 1748-1772.

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**Powis, Earl of :** George Edward Henry Arthur Herbert, 1772-1801.

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**Powis, Earl :** Edward Clive, 1804-1839.

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**Powis, Earl of :** Edward James Herbert, 1848.

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**Prudhoe, Lord :** Algernon Percy, 1816-1847 ; Duke of Northumberland,  
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**Queensberry, Marquis of:** Charles Douglas, 1810-1837; Lord Solway, 1833-1837.  
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**Raby, Lord:** Thomas Wentworth, 1695-1711; Earl of Strafford, 1711.  
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**Radnor, Earl of:** Charles Bodvile Robartes, 1685-1723.  
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**Radnor, Earl of:** William Bouverie, 1765-1776.  
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**Radnor, Earl of:** Jacob Pleydell Bouverie, 1776-1828.  
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**Ranfurly, Earl of:** Thomas Knox, 1840-1858.  
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**Rawdon, Lord:** Francis Rawdon, 1783-1808; Lord Hastings, &c.;  
Marquis of Hastings, 1817.  
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**Raymond, Lord:** Robert Raymond, 1732-1753.  
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**Redesdale, Lord:** John Freeman Mitford, 1802-1830.  
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**Richmond and Lennox, Duke of:** Charles Stuart, 1660-1672.  
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**Richmond and Lennox, Duke of:** Charles Lennox, 1675-1723.  
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**Richmond and Lennox, Duke of:** Charles Lennox, 1750-1806.  
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- ccclxxxii. ccclxxxiii. ccclxxxiv. ccclxxxv. ccclxxxvi. ccclxxxviii.  
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- Richmond and Lennox**, Duke of: Charles Lennox, 1819-1860.  
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- Ripon**, Bishop of: Robert Bickersteth, 1857.  
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- Rivers**, Earl of: Thomas Savage, 1654-1694.  
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- Rivers**, Earl: Richard Savage, 1694-1712.  
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- Rivers**, Lord: Horace Pitt Rivers, 1867.  
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- Robartes**, Lord: John Robartes, 1634-1679; Earl of Radnor, 1679-1685.  
iv. vi. vii. xiv. xv. xvii. xx.
- Rochester**, Earl of: John Wilmot, 1659-1680.  
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- Rochester**, Earl of: Laurence Hyde, 1682-1711.  
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- Rochester**, Bishop of: Thomas Sprat, 1684-1713.  
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- Rochester**, Bishop of: Francis Atterbury, 1713-1723.  
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- Rochester**, Bishop of: George Murray, 1827-1867.  
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- Roehford**, Earl of: Frederic Nassau de Zulestein, 1710-1738.  
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- Rockingham**, Marquis of: Charles Watson Wentworth, 1750-1782.  
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- Rockingham**, Lord: Edward Watson, 1652-1691.  
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- Rockingham**, Lord: Lewis Watson, 1691-1714; Earl of Rockingham, 1714-1724.  
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- Rockingham**, Earl of : Lewis Watson, 1724-1745.  
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- Rodney**, Lord : George Brydges Rodney, 1782-1792.  
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- Rolle**, Lord : John Rolle, 1796-1842.  
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- Rollo**, Lord : William Rollo, 1846-1852.  
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- Romney**, Earl of : Charles Marsham, 1811-1845.  
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- Romney**, Earl of : Charles Marsham, 1845-1874.  
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- Rosebery**, Earl of : Archibald Primrose, 1706-1716.  
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- Rosebery**, Earl of : Archibald John Primrose, 1828.  
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- Rosebery**, Lord : Archibald John Primrose, 1828-1868 ; Earl of Rosebery, 1814-1868.  
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- Rosse**, Earl of : Laurence Parsons, 1791-1841.  
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- Rosse**, Earl of : William Parsons, 1841-1867.  
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- Rosse**, Earl of : Laurence Parsons, 1867.  
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- Rosslyn**, Earl of : James St. Clair Erskine, 1805-1837.  
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- Rosslyn**, Earl of : James Alexander St. Clair Erskine, 1837-1866.  
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- Rossmore**, Lord : Henry Robert Westenra, 1842-1860.  
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- Rothes**, Earl of : John Leslie, 1700-1722.  
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- Rous**, Lord : John Rous, 1796-1821 ; Earl of Stradbroke, 1821-1827.  
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- Roxburgh**, Duke of : John Ker, 1707-1741.  
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**Russell of Thornhaugh, Lord :** Francis Russell, 1613-1627; Earl of Bedford, 1627-1641.

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**Rutland, Earl of :** George Manners, 1632-1641.

ii.

**Rutland, Duke of :** John Manners, 1711-1721.

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**Rutland, Duke of :** John Manners, 1721-1779.

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**Rutland, Duke of :** Charles Manners, 1779-1787.

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**Rutland, Duke of :** John Henry Manners, 1787-1857.

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**Rutland, Duke of :** Charles Cecil John Manners, 1857.

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**St. Alban's, Duke of :** Charles Beauclerk, 1684-1726.

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**St. Alban's, Duke of :** Aubrey Beauclerk, 1787-1802.

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**St. Asaph, Bishop of :** John Owen, 1629-1651.

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**St. Asaph, Bishop of :** William Lloyd, 1680-1692.

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**St. Asaph, Bishop of :** William Fleetwood, 1708-1714.

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**St. Asaph, Bishop of :** Jonathan Shipley, 1769-1788.

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**St. David's, Bishop of :** William Lucy, 1660-1677.

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**St. David's, Bishop of :** Thomas Watson, 1687-1699.

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**St. David's, Bishop of :** Philip Bisse, 1710-1713.

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**St. German's, Earl of :** Edward Granville Eliot, 1845.

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**St. Helen's, Lord :** Alleyne Fitzherbert, 1801-1839.

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**St. John, Lord :** Oliver St. John, summoned *vita avi*, 1640; Earl of Bolingbroke, 1646-1688.

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**St. John of Bletscoe, Lord :** Rowland St. John, 1720-1722.

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- St. John of Bletsoe, Lord :** John St. John, 1722-1757.  
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- St. John of Bletsoe, Lord :** Henry Beauchamp St. John, 1767-1805.  
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- St. John of Bletsoe, Lord :** St. Andrew St. John, 1805-1817.  
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- St. Leonard's, Lord :** Edward Burtenshaw Sugden, 1852-1875.  
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- St. Vincent, Viscount :** Edward Jervis Jervis, 1823-1859.  
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- Salisbury, Earl of :** William Cecil, 1612-1668.  
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- Salisbury, Earl of :** James Cecil, 1668-1683.  
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- Salisbury, Earl of :** James Cecil, 1694-1728.  
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- Salisbury, Marquis of :** James Brownlow William Gascoyne Cecil, 1823-1868.  
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- Salisbury, Bishop of :** Gilbert Burnet, 1689-1715.  
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- Salisbury, Bishop of :** Thomas Burgess, 1825-1837.  
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- Salisbury, Bishop of :** Walter Kerr Hamilton, 1854-1869.  
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- Saltersford, Lord :** James George Stopford, 1810-1835. (Earl of Courtown.)  
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- Saltersford, Lord :** James George Henry Stopford, 1858. (Earl of Courtown.)  
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- Saltoun, Lord :** Alexander George Fraser, 1793-1853.  
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- Saltoun, Lord :** Alexander Fraser, 1853.  
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- Sandwich, Earl of :** Edward Montagu, 1689-1729.  
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- Sandwich, Earl of :** John Montagu, 1729-1792.  
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**Sandwich, Earl of:** John William Montague, 1818.

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**Sandys, Lord:** William Sandys, 1661-1668.

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**Sandys, Lord:** Henry Sandys, 1669-1680.

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**Say, Lord:** William Fiennes, 1613-1624; Viscount Say and Sele, 1624-1662.

i.

**Say and Sele, Viscount:** William Fiennes, 1624-1662.

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**Say and Sele, Viscount:** James Fiennes, 1662-1674.

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**Say and Sele, Viscount:** William Fiennes, 1674-1696.

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**Say and Sele, Viscount:** Nathaniel Fiennes, 1696-1710.

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**Say and Sele, Viscount:** Laurence Fiennes, 1710-1742.

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**Say and Sele, Lord:** Thomas Twistleton, 1781-1788.

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**Say and Sele, Lord:** Gregory William Twistleton, 1788-1844.

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**Scarborough, Earl of:** Richard Lumley, 1690-1721.

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**Scarborough, Earl of:** Richard Lumley Sanderson, 1752-1782.

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**Scarborough, Earl of:** George Augusta Lumley Sanderson, 1782-1807.

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**Scarborough, Earl of:** Richard Lumley Sanderson, 1807-1832.

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**Scarborough, Earl of:** John Lumley, 1835-1856.

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**Scarsdale, Earl of:** Nicholas Leke, 1655-1680.

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**Scarsdale, Earl of:** Robert Leke, 1680-1707.

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**Scarsdale, Earl of:** Nicholas Leke, 1707-1736.

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**Scarsdale, Lord :** Nathaniel Curzon, 1761-1804.

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**Schomberg and Leinster, Duke of :** Meinhardt Schomberg, 1693-1719.

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**Scrope, Lord :** Emanuel Scrope, 1614-1627; Earl of Sunderland, 1627-1630.

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**Seafeld, Earl of :** James Ogilvy, 1658-1711.

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**Seaford, Lord :** Charles Rose Ellis, 1826-1845.

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**Seaforth, Lord :** Francis Humberstone Mackenzie, 1797-1815.

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**Selkirk, Earl of :** Charles Douglas, 1687-1739.

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**Selkirk, Earl of :** Dunbar Hamilton, afterwards Douglas, 1744-1799.

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**Selkirk, Earl of :** Thomas Douglas, 1799-1820.

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**Selkirk, Earl of :** Dunbar James Douglas, 1820.

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**Selsey, Lord :** Henry John Peachey, 1816-1838.

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**Shaftesbury, Earl of :** Anthony Ashley Cooper, 1672-1683.

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**Shaftesbury, Earl of :** Anthony Ashley Cooper, 1713-1771.

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**Shaftesbury, Earl of :** Anthony Ashley Cooper, 1771-1811.

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**Shaftesbury, Earl of :** Cropley Ashley Cooper, 1811-1851.

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**Sheffield, Lord:** Edmund Sheffield, 1569-1626; Earl of Mulgrave, 1626-1646.

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**Sheffield, Lord:** John Baker Holroyd, 1802-1821.  
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**Sheffield, Lord:** George Augustus Frederic Charles Holroyd, 1821.  
(Earl of Sheffield.)  
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**Sherborne, Lord:** John Dutton, 1820-1862.  
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**Shrewsbury, Duke of:** Charles Talbot, 1694-1718.  
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**Sidmouth, Viscount:** Henry Addington, 1805-1844.  
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**Silchester, Lord:** William Lygon Pakenham, 1860. (Earl of Longford.)  
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**Skelmersdale, Lord:** Edward Bootle Wilbraham, 1828-1853.  
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**Skelmersdale, Lord:** Edward Bootle Wilbraham, 1853.  
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**Solway, Lord:** William Douglas, 1833-1837. (Marquis of Queensberry.)  
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**Somerhill, Lord:** Ulick John De Burgh, 1825-1874. (Marquis of Clanricarde.)  
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**Sommers, Lord:** John Sommers, 1697-1716.  
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**Sommers, Lord:** John Sommers Cocks, 1806-1821; Earl Sommers, 1821-1841.  
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**Sommers, Earl:** John Sommers Cocks, 1841-1852.  
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**Somerset, Duke of:** Charles Seymour, 1678-1748.  
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**Somerset, Duke of:** Edward Adolphus Seymour, 1793-1855.  
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**Sondes, Lord:** Lewis Monson Watson, 1760-1795.  
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- Sondes, Lord:** George John Milles, 1836-1874.  
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- Southampton, Earl of:** Henry Wriothesley, 1603-1624.  
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- Southampton, Earl of:** Thomas Wriothesley, 1624-1667.  
 viii.
- Southampton, Duke of:** Charles Fitzroy, 1675-1730; Duke of Cleveland, 1709.  
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- Southampton, Lord:** Charles Fitzroy, 1780-1797.  
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- Southampton, Lord:** Charles Fitzroy, 1810-1872.  
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- Spencer, Lord:** Henry Spencer, 1636-1643; Earl of Sunderland, 1643.  
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- Spencer, Earl:** John Spencer, 1765-1783.  
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- Spencer, Earl:** George John Spencer, 1783-1834.  
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- Spencer of Wormleighton, Lord:** George Spencer, summoned *vis  
 patris*, 1806-1817.  
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- Stafford, Viscount:** William Howard, 1640-1678.  
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- Stafford, Marquis of:** George Granville Leveson Gower, 1803-1833;  
 Duke of Sutherland, 1833.  
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- Stafford, Lord:** Henry Valentine Stafford Jerningham, 1851.  
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- Stair, Earl of:** John Dalrymple, 1707-1747.  
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- Stair, Earl of:** John Dalrymple, 1789-1821.  
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- Stamford, Earl of:** Henry Grey, 1628-1673.  
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- Stamford, Earl of:** Thomas Grey, 1673-1720.  
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- Stamford, Earl of:** Harry Grey, 1739-1768.  
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**Stamford, Earl of :** George Harry Grey, 1768-1819; Earl of Warrington, 1796.

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**Stamford and Warrington, Earl of :** George Harry Grey, 1819-1845. dlxxxv.

**Stanhope, Earl :** Philip Stanhope, 1721-1786.

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**Stanhope, Earl :** Charles Stanhope, 1786-1816.

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**Stanhope, Earl :** Philip Henry Stanhope, 1816-1855.

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**Stanley, Lord :** Edward Geoffrey Smith Stanley, summoned *vita patris*, 1844-1851.

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**Stanley of Alderley, Lord :** John Thomas Stanley, 1827-1850.

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**Stanley of Alderley, Lord :** Edward John Stanley, 1850-1869; Lord Eddisbury.

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**Stanley of Alderley, Lord :** Henry Edward John Stanley, 1869.

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**Stawell, Lord :** William Stawell, 1692-1742.

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**Stawell, Lord :** Henry Stawel Bilson Legge, 1780-1820.

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**Stewart of Garlies, Randolph Stewart, 1834-1873. (Earl of Gal-  
loway.)**

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**Stowell, Lord :** William Scott, 1821-1836.

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